

U.S. Sentencing Commission Preliminary Quarterly Data Report



**4th Quarter Release
Preliminary Fiscal Year 2009 Data
Through September 30, 2009**

Introduction

As part of its ongoing mission, the United States Sentencing Commission provides Congress, the judiciary, the executive branch, and the general public with data extracted and analyzed from sentencing documents submitted by courts to the Commission.¹ Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.² After the Supreme Court's decision in *United States v. Booker* on January 12, 2005, which rendered the sentencing guidelines advisory instead of mandatory, many people expressed an interest in knowing what changes, if any, in federal sentencing practices would result. The Commission responded by reconfiguring its data collection, analysis, and reporting efforts to provide real-time data reporting from the submitted documents.

The Commission first reported data on February 10, 2005 to Congress³ and began reporting data approximately monthly shortly thereafter. The types of data reported increased over time to accommodate various requests for the additional information. In March 2006, the Commission released a comprehensive report, *Final Report on the Impact of United States v. Booker on Federal Sentencing*,⁴ based on cases sentenced one year since the *Booker* decision. Because the report included additional analyses that had not been included in the monthly reports, not all the data presented in the report was comparable with the monthly releases, which made comparing data over time difficult.

In an effort to standardize the Commission's post-*Booker* analyses and to facilitate the identification of emerging trends going forward, the Commission began generating a new set of tables and charts on a quarterly basis for public release on the Commission's website beginning with the third quarter of fiscal year 2006. These quarterly data reports are similar in format and methodology to tables and figures produced in the *Sourcebook* or in the Commission's *Booker* report. Some of the figures include data from fiscal years before the *Booker* decision to facilitate analysis of sentencing trends over time. Other figures and all of the tables contain cumulative data (*i.e.*, data from the start of the fiscal year through the most current quarter). Appendix B cross-references the quarterly table numbers and figure letters as well as the corresponding number or letter in the *Sourcebook* (if it exists in the *Sourcebook*) so that the quarterly data can

¹In each felony or Class A misdemeanor case sentenced in federal court, sentencing courts are required to submit the following documents to the Commission: the Judgment and Commitment Order, the Statement of Reasons, the plea agreement (if applicable), the indictment or other charging document, and the presentence report. See 28 U.S.C. § 994(w).

²See the Commission's website, www.ussc.gov, for electronic copies of the 1995-2008 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

³See www.ussc.gov/bf.htm for an electronic copy of the prepared testimony of Ricardo H. Hinojosa, chair of the United States Sentencing Commission, before the Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, United States House of Representatives, February 10, 2005.

⁴See www.ussc.gov/bf.htm for an electronic copy of the Commission's *Final Report on the Impact of United States v. Booker on Federal Sentencing*.

be compared easily with data from prior fiscal years.⁵ In Appendix A are descriptions of datafile and variable definitions.

Users of the quarterly releases are cautioned that the quarterly data are preliminary only and subject to change as the Commission collects, analyzes, and reports on additional cases throughout the fiscal year. When data for each new quarter is made available, the Commission will update the previous preliminary quarterly totals in the most recent release until the release of the final fiscal year data in the Commission's *Sourcebook*. For example, the data reported in the initial release for the second quarter of the fiscal year may change as the Commission receives and analyzes documents during the remaining quarters for additional cases sentenced during the second quarter.⁶ Any subsequent changes in the quarterly data for the second quarter would be reflected initially in the subsequent quarterly releases and finally in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*. As a result, **quarterly data should not be considered final until publication of the Commission's *Annual Report* and *Sourcebook*.**

⁵The Commission has tried to maintain the same table numbers and figure letters over the past several years but due to slight differences in reporting categories between pre- and post-*Booker* time periods, the numbers and letters may not correspond exactly over time. Please refer to the table of contents for each of the prior *Sourcebook* years to determine the corresponding table number or figure letter.

⁶The reasons for data changes in previous quarters is due to one or more of the following reasons: the courts have up to 30 days to submit court documents to the Commission; the Commission both extracts information from the documents and screens cases through the quality control procedures and does not include any case in a data release unless it has been fully entered and reviewed; some documents are sent in later than other documents and the datafiles are then updated with the new information; the Commission receives amended court documents and updates the datafile based on the new information; the Commission matches its datafile to datafiles from the Administrative Office of the United States Courts and requests any case documents not received - a process that can only be completed after the documents have been received and the information entered into the Commission's database. For all of the above reasons, data may be excluded/included or reported differently from one quarter to another.

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**NATIONAL COMPARISON OF SENTENCE IMPOSED AND
POSITION RELATIVE TO THE GUIDELINE RANGE¹**
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

	N	%
TOTAL CASES	77,139	100.0
CASES SENTENCED WITHIN GUIDELINE RANGE	43,945	57.0
CASES SENTENCED ABOVE GUIDELINE RANGE	1,414	1.8
DEPARTURE ABOVE GUIDELINE RANGE	508	0.7
Upward Departure From Guideline Range ²	360	0.5
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	148	0.2
OTHERWISE ABOVE GUIDELINE RANGE	906	1.1
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	798	1.0
All Remaining Cases Above Guideline Range ⁵	108	0.1
GOVERNMENT SPONSORED BELOW RANGE⁶	19,518	25.3
§5K1.1 Substantial Assistance Departure	9,599	12.4
§5K3.1 Early Disposition Program Departure	7,087	9.2
Other Government Sponsored Below Range	2,832	3.7
NON-GOVERNMENT SPONSORED BELOW RANGE	12,262	15.9
DEPARTURE BELOW GUIDELINE RANGE	2,316	3.0
Downward Departure From Guideline Range ²	1,501	1.9
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 ³	815	1.1
OTHERWISE BELOW GUIDELINE RANGE	9,946	12.9
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 ⁴	9,038	11.7
All Remaining Cases Below Guideline Range ⁵	908	1.2

¹This table reflects the 78,832 cases sentenced on or after October 1, 2008, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by November 16, 2009. Of these, 1,693 cases were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

²All cases with departures in which the court did not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

³All cases sentenced outside of the guideline range in which the court indicated both a departure (see footnote 2) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

⁴All cases sentenced outside of the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing outside of the guideline system.

⁵All cases sentenced outside of the guideline range that could not be classified into any of the three previous outside of the range categories. This category includes cases in which no reason was provided for a sentence outside of the guideline range.

⁶Cases in which a reason for the sentence indicated that the prosecution initiated, proposed, or stipulated to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	77,139	43,945	57.0	360	0.5	148	0.2	798	1.0	108	0.1
D.C. CIRCUIT	365	144	39.5	2	0.5	0	0.0	1	0.3	2	0.5
District of Columbia	365	144	39.5	2	0.5	0	0.0	1	0.3	2	0.5
FIRST CIRCUIT	1,728	918	53.1	8	0.5	1	0.1	16	0.9	2	0.1
Maine	225	117	52.0	1	0.4	0	0.0	2	0.9	0	0.0
Massachusetts	491	171	34.8	5	1.0	0	0.0	5	1.0	1	0.2
New Hampshire	202	88	43.6	1	0.5	0	0.0	4	2.0	0	0.0
Puerto Rico	682	481	70.5	1	0.1	1	0.1	4	0.6	1	0.1
Rhode Island	128	61	47.7	0	0.0	0	0.0	1	0.8	0	0.0
SECOND CIRCUIT	4,371	1,900	43.5	6	0.1	3	0.1	13	0.3	1	0.0
Connecticut	379	152	40.1	3	0.8	0	0.0	1	0.3	0	0.0
New York											
Eastern	1,139	395	34.7	1	0.1	1	0.1	4	0.4	0	0.0
Northern	481	302	62.8	0	0.0	0	0.0	1	0.2	0	0.0
Southern	1,471	625	42.5	0	0.0	1	0.1	1	0.1	1	0.1
Western	707	366	51.8	2	0.3	1	0.1	5	0.7	0	0.0
Vermont	194	60	30.9	0	0.0	0	0.0	1	0.5	0	0.0
THIRD CIRCUIT	3,027	1,386	45.8	7	0.2	5	0.2	19	0.6	3	0.1
Delaware	158	64	40.5	0	0.0	0	0.0	1	0.6	1	0.6
New Jersey	872	401	46.0	1	0.1	1	0.1	3	0.3	0	0.0
Pennsylvania											
Eastern	856	326	38.1	4	0.5	1	0.1	6	0.7	1	0.1
Middle	629	282	44.8	2	0.3	3	0.5	3	0.5	1	0.2
Western	454	273	60.1	0	0.0	0	0.0	1	0.2	0	0.0
Virgin Islands	58	40	69.0	0	0.0	0	0.0	5	8.6	0	0.0
FOURTH CIRCUIT	6,262	3,943	63.0	46	0.7	22	0.4	59	0.9	13	0.2
Maryland	699	324	46.4	3	0.4	4	0.6	5	0.7	3	0.4
North Carolina											
Eastern	639	361	56.5	11	1.7	3	0.5	6	0.9	1	0.2
Middle	411	295	71.8	1	0.2	0	0.0	2	0.5	0	0.0
Western	520	282	54.2	3	0.6	1	0.2	4	0.8	1	0.2
South Carolina	1,070	701	65.5	11	1.0	3	0.3	2	0.2	2	0.2
Virginia											
Eastern	1,750	1,297	74.1	13	0.7	10	0.6	16	0.9	5	0.3
Western	492	265	53.9	3	0.6	1	0.2	12	2.4	0	0.0
West Virginia											
Northern	397	247	62.2	0	0.0	0	0.0	4	1.0	0	0.0
Southern	284	171	60.2	1	0.4	0	0.0	8	2.8	1	0.4

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	9,599	12.4	7,087	9.2	2,832	3.7	1,501	1.9	815	1.1	9,038	11.7	908	1.2
D.C. CIRCUIT	90	24.7	0	0.0	54	14.8	3	0.8	10	2.7	46	12.6	13	3.6
District of Columbia	90	24.7	0	0.0	54	14.8	3	0.8	10	2.7	46	12.6	13	3.6
FIRST CIRCUIT	206	11.9	34	2.0	115	6.7	31	1.8	37	2.1	329	19.0	31	1.8
Maine	60	26.7	0	0.0	1	0.4	4	1.8	1	0.4	38	16.9	1	0.4
Massachusetts	41	8.4	0	0.0	62	12.6	18	3.7	17	3.5	164	33.4	7	1.4
New Hampshire	50	24.8	0	0.0	23	11.4	1	0.5	0	0.0	34	16.8	1	0.5
Puerto Rico	43	6.3	34	5.0	26	3.8	7	1.0	19	2.8	43	6.3	22	3.2
Rhode Island	12	9.4	0	0.0	3	2.3	1	0.8	0	0.0	50	39.1	0	0.0
SECOND CIRCUIT	905	20.7	1	0.0	153	3.5	119	2.7	121	2.8	1,077	24.6	72	1.6
Connecticut	70	18.5	0	0.0	13	3.4	19	5.0	23	6.1	95	25.1	3	0.8
New York														
Eastern	300	26.3	1	0.1	58	5.1	33	2.9	35	3.1	282	24.8	29	2.5
Northern	78	16.2	0	0.0	10	2.1	16	3.3	6	1.2	65	13.5	3	0.6
Southern	208	14.1	0	0.0	33	2.2	36	2.4	36	2.4	502	34.1	28	1.9
Western	200	28.3	0	0.0	26	3.7	2	0.3	2	0.3	95	13.4	8	1.1
Vermont	49	25.3	0	0.0	13	6.7	13	6.7	19	9.8	38	19.6	1	0.5
THIRD CIRCUIT	772	25.5	0	0.0	95	3.1	38	1.3	50	1.7	575	19.0	77	2.5
Delaware	16	10.1	0	0.0	3	1.9	0	0.0	0	0.0	33	20.9	40	25.3
New Jersey	254	29.1	0	0.0	17	1.9	12	1.4	3	0.3	165	18.9	15	1.7
Pennsylvania														
Eastern	275	32.1	0	0.0	18	2.1	8	0.9	17	2.0	188	22.0	12	1.4
Middle	174	27.7	0	0.0	50	7.9	8	1.3	4	0.6	96	15.3	6	1.0
Western	48	10.6	0	0.0	7	1.5	10	2.2	24	5.3	88	19.4	3	0.7
Virgin Islands	5	8.6	0	0.0	0	0.0	0	0.0	2	3.4	5	8.6	1	1.7
FOURTH CIRCUIT	1,033	16.5	0	0.0	168	2.7	93	1.5	39	0.6	787	12.6	59	0.9
Maryland	174	24.9	0	0.0	48	6.9	12	1.7	15	2.1	96	13.7	15	2.1
North Carolina														
Eastern	208	32.6	0	0.0	3	0.5	4	0.6	0	0.0	37	5.8	5	0.8
Middle	71	17.3	0	0.0	1	0.2	1	0.2	2	0.5	37	9.0	1	0.2
Western	165	31.7	0	0.0	4	0.8	8	1.5	4	0.8	41	7.9	7	1.3
South Carolina	186	17.4	0	0.0	31	2.9	15	1.4	2	0.2	110	10.3	7	0.7
Virginia														
Eastern	68	3.9	0	0.0	24	1.4	32	1.8	12	0.7	251	14.3	22	1.3
Western	111	22.6	0	0.0	9	1.8	15	3.0	1	0.2	74	15.0	1	0.2
West Virginia														
Northern	30	7.6	0	0.0	46	11.6	3	0.8	0	0.0	66	16.6	1	0.3
Southern	20	7.0	0	0.0	2	0.7	3	1.1	3	1.1	75	26.4	0	0.0

Table 2 (cont.)

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
FIFTH CIRCUIT	18,973	13,631	71.8	107	0.6	37	0.2	282	1.5	27	0.1
Louisiana											
Eastern	425	286	67.3	4	0.9	4	0.9	8	1.9	1	0.2
Middle	174	105	60.3	4	2.3	3	1.7	4	2.3	0	0.0
Western	340	268	78.8	5	1.5	3	0.9	13	3.8	1	0.3
Mississippi											
Northern	133	73	54.9	0	0.0	0	0.0	2	1.5	0	0.0
Southern	302	243	80.5	3	1.0	0	0.0	5	1.7	1	0.3
Texas											
Eastern	919	704	76.6	9	1.0	0	0.0	5	0.5	0	0.0
Northern	995	646	64.9	23	2.3	11	1.1	35	3.5	0	0.0
Southern	7,407	4,746	64.1	44	0.6	10	0.1	63	0.9	5	0.1
Western	8,278	6,560	79.2	15	0.2	6	0.1	147	1.8	19	0.2
SIXTH CIRCUIT	5,039	2,573	51.1	24	0.5	14	0.3	54	1.1	8	0.2
Kentucky											
Eastern	647	313	48.4	1	0.2	1	0.2	11	1.7	1	0.2
Western	395	262	66.3	1	0.3	0	0.0	3	0.8	0	0.0
Michigan											
Eastern	704	356	50.6	4	0.6	0	0.0	3	0.4	1	0.1
Western	481	297	61.7	3	0.6	4	0.8	13	2.7	1	0.2
Ohio											
Northern	639	325	50.9	2	0.3	0	0.0	3	0.5	1	0.2
Southern	615	205	33.3	5	0.8	5	0.8	5	0.8	2	0.3
Tennessee											
Eastern	637	371	58.2	4	0.6	0	0.0	4	0.6	2	0.3
Middle	300	131	43.7	2	0.7	2	0.7	4	1.3	0	0.0
Western	621	313	50.4	2	0.3	2	0.3	8	1.3	0	0.0
SEVENTH CIRCUIT	2,773	1,469	53.0	8	0.3	9	0.3	58	2.1	2	0.1
Illinois											
Central	346	175	50.6	0	0.0	0	0.0	2	0.6	0	0.0
Northern	808	369	45.7	1	0.1	3	0.4	11	1.4	2	0.2
Southern	297	219	73.7	2	0.7	5	1.7	4	1.3	0	0.0
Indiana											
Northern	441	284	64.4	0	0.0	1	0.2	10	2.3	0	0.0
Southern	227	133	58.6	4	1.8	0	0.0	10	4.4	0	0.0
Wisconsin											
Eastern	464	177	38.1	1	0.2	0	0.0	17	3.7	0	0.0
Western	190	112	58.9	0	0.0	0	0.0	4	2.1	0	0.0
EIGHTH CIRCUIT	5,290	3,017	57.0	31	0.6	15	0.3	54	1.0	9	0.2
Arkansas											
Eastern	408	257	63.0	2	0.5	2	0.5	9	2.2	2	0.5
Western	253	193	76.3	0	0.0	0	0.0	3	1.2	0	0.0
Iowa											
Northern	347	178	51.3	12	3.5	1	0.3	4	1.2	3	0.9
Southern	470	243	51.7	0	0.0	0	0.0	10	2.1	0	0.0
Minnesota	612	197	32.2	1	0.2	0	0.0	1	0.2	1	0.2
Missouri											
Eastern	970	564	58.1	1	0.1	0	0.0	7	0.7	0	0.0
Western	815	480	58.9	2	0.2	2	0.2	9	1.1	1	0.1
Nebraska	642	397	61.8	7	1.1	1	0.2	3	0.5	2	0.3
North Dakota	266	150	56.4	0	0.0	1	0.4	2	0.8	0	0.0
South Dakota	507	358	70.6	6	1.2	8	1.6	6	1.2	0	0.0

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
FIFTH CIRCUIT	1,330	7.0	1,199	6.3	443	2.3	509	2.7	45	0.2	1,198	6.3	165	0.9
Louisiana														
Eastern	54	12.7	0	0.0	19	4.5	16	3.8	1	0.2	27	6.4	5	1.2
Middle	43	24.7	0	0.0	0	0.0	0	0.0	2	1.1	13	7.5	0	0.0
Western	11	3.2	0	0.0	2	0.6	2	0.6	3	0.9	27	7.9	5	1.5
Mississippi														
Northern	37	27.8	0	0.0	6	4.5	1	0.8	0	0.0	11	8.3	3	2.3
Southern	16	5.3	0	0.0	1	0.3	4	1.3	0	0.0	23	7.6	6	2.0
Texas														
Eastern	68	7.4	0	0.0	56	6.1	16	1.7	6	0.7	49	5.3	6	0.7
Northern	146	14.7	0	0.0	11	1.1	3	0.3	4	0.4	109	11.0	7	0.7
Southern	433	5.8	1,055	14.2	230	3.1	315	4.3	10	0.1	473	6.4	23	0.3
Western	522	6.3	144	1.7	118	1.4	152	1.8	19	0.2	466	5.6	110	1.3
SIXTH CIRCUIT	1,225	24.3	0	0.0	146	2.9	82	1.6	102	2.0	751	14.9	60	1.2
Kentucky														
Eastern	248	38.3	0	0.0	7	1.1	2	0.3	1	0.2	58	9.0	4	0.6
Western	57	14.4	0	0.0	22	5.6	5	1.3	3	0.8	36	9.1	6	1.5
Michigan														
Eastern	138	19.6	0	0.0	21	3.0	15	2.1	10	1.4	149	21.2	7	1.0
Western	62	12.9	0	0.0	8	1.7	6	1.2	12	2.5	72	15.0	3	0.6
Ohio														
Northern	152	23.8	0	0.0	14	2.2	12	1.9	12	1.9	105	16.4	13	2.0
Southern	190	30.9	0	0.0	37	6.0	23	3.7	38	6.2	95	15.4	10	1.6
Tennessee														
Eastern	179	28.1	0	0.0	3	0.5	7	1.1	3	0.5	60	9.4	4	0.6
Middle	62	20.7	0	0.0	10	3.3	6	2.0	18	6.0	63	21.0	2	0.7
Western	137	22.1	0	0.0	24	3.9	6	1.0	5	0.8	113	18.2	11	1.8
SEVENTH CIRCUIT	462	16.7	0	0.0	92	3.3	44	1.6	89	3.2	487	17.6	53	1.9
Illinois														
Central	91	26.3	0	0.0	11	3.2	4	1.2	4	1.2	57	16.5	2	0.6
Northern	124	15.3	0	0.0	16	2.0	27	3.3	68	8.4	165	20.4	22	2.7
Southern	29	9.8	0	0.0	4	1.3	2	0.7	8	2.7	18	6.1	6	2.0
Indiana														
Northern	74	16.8	0	0.0	10	2.3	7	1.6	6	1.4	39	8.8	10	2.3
Southern	29	12.8	0	0.0	11	4.8	2	0.9	0	0.0	37	16.3	1	0.4
Wisconsin														
Eastern	90	19.4	0	0.0	39	8.4	1	0.2	2	0.4	125	26.9	12	2.6
Western	25	13.2	0	0.0	1	0.5	1	0.5	1	0.5	46	24.2	0	0.0
EIGHTH CIRCUIT	832	15.7	27	0.5	167	3.2	84	1.6	58	1.1	943	17.8	53	1.0
Arkansas														
Eastern	49	12.0	0	0.0	15	3.7	7	1.7	7	1.7	54	13.2	4	1.0
Western	33	13.0	0	0.0	1	0.4	4	1.6	0	0.0	17	6.7	2	0.8
Iowa														
Northern	68	19.6	0	0.0	6	1.7	1	0.3	0	0.0	74	21.3	0	0.0
Southern	82	17.4	0	0.0	12	2.6	3	0.6	3	0.6	111	23.6	6	1.3
Minnesota	187	30.6	0	0.0	10	1.6	18	2.9	13	2.1	174	28.4	10	1.6
Missouri														
Eastern	137	14.1	0	0.0	41	4.2	20	2.1	15	1.5	171	17.6	14	1.4
Western	177	21.7	0	0.0	25	3.1	1	0.1	3	0.4	104	12.8	11	1.3
Nebraska	17	2.6	27	4.2	37	5.8	7	1.1	5	0.8	135	21.0	4	0.6
North Dakota	62	23.3	0	0.0	6	2.3	6	2.3	3	1.1	35	13.2	1	0.4
South Dakota	20	3.9	0	0.0	14	2.8	17	3.4	9	1.8	68	13.4	1	0.2

Table 2 (cont.)

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	15,776	6,303	40.0	85	0.5	28	0.2	102	0.6	27	0.2
Alaska	175	85	48.6	1	0.6	2	1.1	1	0.6	0	0.0
Arizona	3,729	1,044	28.0	48	1.3	3	0.1	12	0.3	2	0.1
California											
Central	1,863	605	32.5	7	0.4	8	0.4	18	1.0	6	0.3
Eastern	1,026	451	44.0	3	0.3	0	0.0	7	0.7	1	0.1
Northern	818	421	51.5	0	0.0	6	0.7	11	1.3	3	0.4
Southern	4,751	1,977	41.6	13	0.3	2	0.0	11	0.2	12	0.3
Guam	60	41	68.3	0	0.0	1	1.7	1	1.7	0	0.0
Hawaii	301	142	47.2	0	0.0	0	0.0	3	1.0	0	0.0
Idaho	328	151	46.0	2	0.6	1	0.3	3	0.9	1	0.3
Montana	397	281	70.8	1	0.3	3	0.8	8	2.0	2	0.5
Nevada	401	266	66.3	1	0.2	0	0.0	4	1.0	0	0.0
Northern Mariana Islands	26	24	92.3	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	608	275	45.2	2	0.3	0	0.0	3	0.5	0	0.0
Washington											
Eastern	395	164	41.5	4	1.0	2	0.5	14	3.5	0	0.0
Western	898	376	41.9	3	0.3	0	0.0	6	0.7	0	0.0
TENTH CIRCUIT	6,610	4,121	62.3	23	0.3	2	0.0	45	0.7	2	0.0
Colorado	511	283	55.4	1	0.2	1	0.2	6	1.2	0	0.0
Kansas	722	409	56.6	4	0.6	0	0.0	21	2.9	0	0.0
New Mexico	3,362	2,164	64.4	10	0.3	0	0.0	2	0.1	1	0.0
Oklahoma											
Eastern	98	63	64.3	2	2.0	0	0.0	1	1.0	0	0.0
Northern	215	152	70.7	0	0.0	0	0.0	0	0.0	0	0.0
Western	470	373	79.4	0	0.0	0	0.0	8	1.7	1	0.2
Utah	814	424	52.1	4	0.5	0	0.0	3	0.4	0	0.0
Wyoming	418	253	60.5	2	0.5	1	0.2	4	1.0	0	0.0
ELEVENTH CIRCUIT	6,925	4,540	65.6	13	0.2	12	0.2	95	1.4	12	0.2
Alabama											
Middle	231	134	58.0	1	0.4	1	0.4	6	2.6	0	0.0
Northern	461	280	60.7	0	0.0	0	0.0	8	1.7	0	0.0
Southern	426	267	62.7	0	0.0	0	0.0	0	0.0	0	0.0
Florida											
Middle	1,623	937	57.7	5	0.3	1	0.1	18	1.1	3	0.2
Northern	391	266	68.0	1	0.3	1	0.3	6	1.5	0	0.0
Southern	2,206	1,546	70.1	2	0.1	6	0.3	25	1.1	6	0.3
Georgia											
Middle	301	231	76.7	1	0.3	1	0.3	6	2.0	1	0.3
Northern	737	450	61.1	0	0.0	2	0.3	7	0.9	2	0.3
Southern	549	429	78.1	3	0.5	0	0.0	19	3.5	0	0.0

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
NINTH CIRCUIT	1,233	7.8	5,139	32.6	789	5.0	315	2.0	161	1.0	1,356	8.6	238	1.5
Alaska	25	14.3	0	0.0	17	9.7	1	0.6	19	10.9	14	8.0	10	5.7
Arizona	172	4.6	2,065	55.4	94	2.5	51	1.4	27	0.7	179	4.8	32	0.9
California														
Central	204	11.0	467	25.1	118	6.3	61	3.3	42	2.3	258	13.8	69	3.7
Eastern	124	12.1	290	28.3	36	3.5	15	1.5	7	0.7	86	8.4	6	0.6
Northern	52	6.4	107	13.1	101	12.3	9	1.1	12	1.5	84	10.3	12	1.5
Southern	180	3.8	2,015	42.4	91	1.9	135	2.8	27	0.6	210	4.4	78	1.6
Guam	10	16.7	0	0.0	1	1.7	0	0.0	1	1.7	5	8.3	0	0.0
Hawaii	102	33.9	0	0.0	0	0.0	1	0.3	0	0.0	50	16.6	3	1.0
Idaho	67	20.4	38	11.6	10	3.0	3	0.9	4	1.2	41	12.5	7	2.1
Montana	38	9.6	0	0.0	3	0.8	6	1.5	3	0.8	49	12.3	3	0.8
Nevada	25	6.2	0	0.0	24	6.0	3	0.7	1	0.2	68	17.0	9	2.2
Northern Mariana Islands	2	7.7	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	107	17.6	37	6.1	74	12.2	8	1.3	4	0.7	92	15.1	6	1.0
Washington														
Eastern	23	5.8	78	19.7	25	6.3	8	2.0	1	0.3	76	19.2	0	0.0
Western	102	11.4	42	4.7	195	21.7	14	1.6	13	1.4	144	16.0	3	0.3
TENTH CIRCUIT	476	7.2	667	10.1	543	8.2	125	1.9	44	0.7	534	8.1	28	0.4
Colorado	94	18.4	0	0.0	18	3.5	17	3.3	3	0.6	84	16.4	4	0.8
Kansas	142	19.7	0	0.0	73	10.1	1	0.1	2	0.3	69	9.6	1	0.1
New Mexico	60	1.8	497	14.8	386	11.5	76	2.3	15	0.4	142	4.2	9	0.3
Oklahoma														
Eastern	13	13.3	0	0.0	1	1.0	2	2.0	1	1.0	14	14.3	1	1.0
Northern	39	18.1	0	0.0	1	0.5	0	0.0	1	0.5	22	10.2	0	0.0
Western	31	6.6	0	0.0	3	0.6	0	0.0	2	0.4	51	10.9	1	0.2
Utah	45	5.5	165	20.3	38	4.7	22	2.7	4	0.5	100	12.3	9	1.1
Wyoming	52	12.4	5	1.2	23	5.5	7	1.7	16	3.8	52	12.4	3	0.7
ELEVENTH CIRCUIT	1,035	14.9	20	0.3	67	1.0	58	0.8	59	0.9	955	13.8	59	0.9
Alabama														
Middle	61	26.4	0	0.0	2	0.9	0	0.0	1	0.4	22	9.5	3	1.3
Northern	105	22.8	0	0.0	1	0.2	1	0.2	2	0.4	60	13.0	4	0.9
Southern	101	23.7	0	0.0	0	0.0	2	0.5	2	0.5	53	12.4	1	0.2
Florida														
Middle	318	19.6	19	1.2	14	0.9	24	1.5	17	1.0	253	15.6	14	0.9
Northern	83	21.2	0	0.0	0	0.0	0	0.0	1	0.3	30	7.7	3	0.8
Southern	178	8.1	0	0.0	27	1.2	10	0.5	18	0.8	367	16.6	21	1.0
Georgia														
Middle	31	10.3	0	0.0	3	1.0	1	0.3	1	0.3	24	8.0	1	0.3
Northern	118	16.0	1	0.1	14	1.9	15	2.0	16	2.2	102	13.8	10	1.4
Southern	40	7.3	0	0.0	6	1.1	5	0.9	1	0.2	44	8.0	2	0.4

¹Of the 78,832 cases, 1,693 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Districts for which information needed to determine the relationship between the sentence imposed and the guideline range is missing in five percent or more of the cases received included: Middle Georgia (26.0%), Arizona (14.4%), Eastern Virginia (13.3%), Maryland (9.8%), Northern New York (8.2%), and Southern Mississippi (7.1%). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

Table 3

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURES		UPWARD DEPARTURES W/ <i>BOOKER</i>		ABOVE RANGE WITH W/ <i>BOOKER</i>		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
TOTAL	77,138	43,945	57.0	360	0.5	148	0.2	798	1.0	108	0.1
Murder	93	55	59.1	6	6.5	1	1.1	2	2.2	0	0.0
Manslaughter	57	33	57.9	4	7.0	1	1.8	6	10.5	0	0.0
Kidnapping/Hostage Taking	39	12	30.8	1	2.6	0	0.0	2	5.1	1	2.6
Sexual Abuse	461	306	66.4	13	2.8	3	0.7	18	3.9	3	0.7
Assault	623	362	58.1	15	2.4	7	1.1	21	3.4	1	0.2
Robbery	971	575	59.2	14	1.4	3	0.3	24	2.5	4	0.4
Arson	60	35	58.3	1	1.7	0	0.0	0	0.0	0	0.0
Drugs - Trafficking	23,404	10,878	46.5	56	0.2	15	0.1	87	0.4	24	0.1
Drugs - Communication Facility	497	255	51.3	0	0.0	0	0.0	4	0.8	0	0.0
Drugs - Simple Possession	499	449	90.0	3	0.6	1	0.2	13	2.6	3	0.6
Firearms	8,078	5,028	62.2	61	0.8	36	0.4	117	1.4	12	0.1
Burglary/B&E	36	30	83.3	0	0.0	0	0.0	2	5.6	1	2.8
Auto Theft	74	42	56.8	1	1.4	0	0.0	4	5.4	0	0.0
Larceny	1,434	1,068	74.5	6	0.4	2	0.1	10	0.7	4	0.3
Fraud	6,792	3,990	58.7	39	0.6	15	0.2	105	1.5	13	0.2
Embezzlement	446	301	67.5	0	0.0	1	0.2	4	0.9	0	0.0
Forgery/Counterfeiting	858	590	68.8	8	0.9	2	0.2	13	1.5	5	0.6
Bribery	164	61	37.2	0	0.0	0	0.0	1	0.6	0	0.0
Tax	599	227	37.9	0	0.0	2	0.3	3	0.5	0	0.0
Money Laundering	779	308	39.5	3	0.4	1	0.1	1	0.1	1	0.1
Racketeering/Extortion	594	250	42.1	1	0.2	8	1.3	9	1.5	0	0.0
Gambling/Lottery	59	28	47.5	0	0.0	0	0.0	2	3.4	0	0.0
Civil Rights	60	29	48.3	0	0.0	0	0.0	1	1.7	0	0.0
Immigration	24,843	15,561	62.6	103	0.4	36	0.1	277	1.1	26	0.1
Pornography/Prostitution	1,876	869	46.3	11	0.6	4	0.2	31	1.7	2	0.1
Prison Offenses	426	303	71.1	1	0.2	3	0.7	6	1.4	3	0.7
Administration of Justice Offenses	936	536	57.3	6	0.6	4	0.4	17	1.8	0	0.0
Environmental/Wildlife	193	108	56.0	1	0.5	0	0.0	0	0.0	0	0.0
National Defense	62	21	33.9	0	0.0	0	0.0	1	1.6	0	0.0
Antitrust	20	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	70	42	60.0	0	0.0	0	0.0	1	1.4	0	0.0
Other Miscellaneous Offenses	2,035	1,593	78.3	6	0.3	3	0.1	16	0.8	5	0.2

Table 3 (cont.)

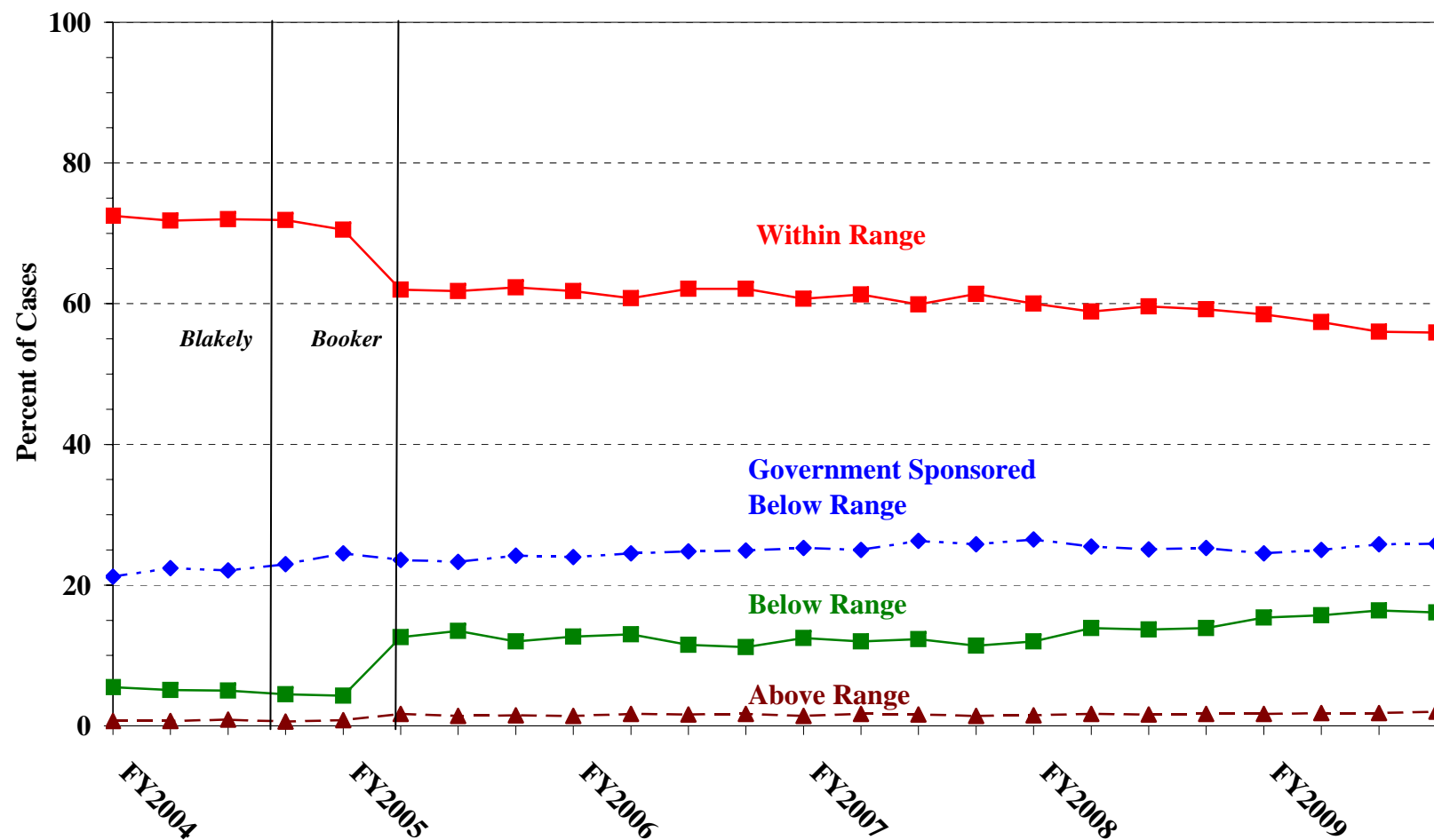
PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	9,599	12.4	7,086	9.2	2,832	3.7	1,501	1.9	815	1.1	9,038	11.7	908	1.2
Murder	20	21.5	0	0.0	4	4.3	0	0.0	1	1.1	4	4.3	0	0.0
Manslaughter	0	0.0	0	0.0	2	3.5	7	12.3	0	0.0	4	7.0	0	0.0
Kidnapping/Hostage Taking	10	25.6	2	5.1	7	17.9	0	0.0	0	0.0	3	7.7	1	2.6
Sexual Abuse	11	2.4	1	0.2	27	5.9	7	1.5	8	1.7	61	13.2	3	0.7
Assault	8	1.3	2	0.3	78	12.5	27	4.3	11	1.8	81	13.0	10	1.6
Robbery	111	11.4	1	0.1	33	3.4	22	2.3	24	2.5	155	16.0	5	0.5
Arson	15	25.0	0	0.0	1	1.7	0	0.0	1	1.7	7	11.7	0	0.0
Drugs - Trafficking	6,062	25.9	1,427	6.1	846	3.6	399	1.7	283	1.2	3,125	13.4	202	0.9
Drugs - Communication Facility	89	17.9	2	0.4	25	5.0	14	2.8	8	1.6	94	18.9	6	1.2
Drugs - Simple Possession	10	2.0	0	0.0	2	0.4	5	1.0	0	0.0	8	1.6	5	1.0
Firearms	933	11.5	17	0.2	284	3.5	155	1.9	98	1.2	1,229	15.2	108	1.3
Burglary/B&E	2	5.6	0	0.0	0	0.0	0	0.0	0	0.0	1	2.8	0	0.0
Auto Theft	12	16.2	0	0.0	4	5.4	1	1.4	1	1.4	9	12.2	0	0.0
Larceny	88	6.1	1	0.1	35	2.4	16	1.1	13	0.9	159	11.1	32	2.2
Fraud	1,012	14.9	8	0.1	224	3.3	103	1.5	86	1.3	1,069	15.7	128	1.9
Embezzlement	12	2.7	0	0.0	11	2.5	8	1.8	10	2.2	86	19.3	13	2.9
Forgery/Counterfeiting	93	10.8	1	0.1	13	1.5	9	1.0	10	1.2	103	12.0	11	1.3
Bribery	52	31.7	1	0.6	6	3.7	3	1.8	1	0.6	37	22.6	2	1.2
Tax	82	13.7	0	0.0	35	5.8	19	3.2	26	4.3	193	32.2	12	2.0
Money Laundering	184	23.6	8	1.0	59	7.6	8	1.0	21	2.7	168	21.6	17	2.2
Racketeering/Extortion	117	19.7	0	0.0	85	14.3	13	2.2	8	1.3	98	16.5	5	0.8
Gambling/Lottery	13	22.0	0	0.0	4	6.8	2	3.4	2	3.4	7	11.9	1	1.7
Civil Rights	10	16.7	0	0.0	3	5.0	0	0.0	1	1.7	13	21.7	3	5.0
Immigration	310	1.2	5,607	22.6	700	2.8	570	2.3	118	0.5	1,292	5.2	243	1.0
Pornography/Prostitution	74	3.9	0	0.0	154	8.2	32	1.7	51	2.7	617	32.9	31	1.7
Prison Offenses	16	3.8	5	1.2	37	8.7	9	2.1	2	0.5	36	8.5	5	1.2
Administration of Justice Offenses	101	10.8	2	0.2	57	6.1	30	3.2	12	1.3	155	16.6	16	1.7
Environmental/Wildlife	21	10.9	0	0.0	21	10.9	7	3.6	3	1.6	23	11.9	9	4.7
National Defense	6	9.7	0	0.0	3	4.8	6	9.7	2	3.2	20	32.3	3	4.8
Antitrust	17	85.0	0	0.0	1	5.0	0	0.0	0	0.0	2	10.0	0	0.0
Food & Drug	9	12.9	0	0.0	9	12.9	0	0.0	1	1.4	6	8.6	2	2.9
Other Miscellaneous Offenses	99	4.9	1	0.0	62	3.0	29	1.4	13	0.6	173	8.5	35	1.7

¹Of the 78,832 cases, 1,694 were excluded due to one or both of the following reasons: missing primary offense (1) or missing information from the submitted documents that prevented the comparison of the sentence and the guideline range (1,693). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

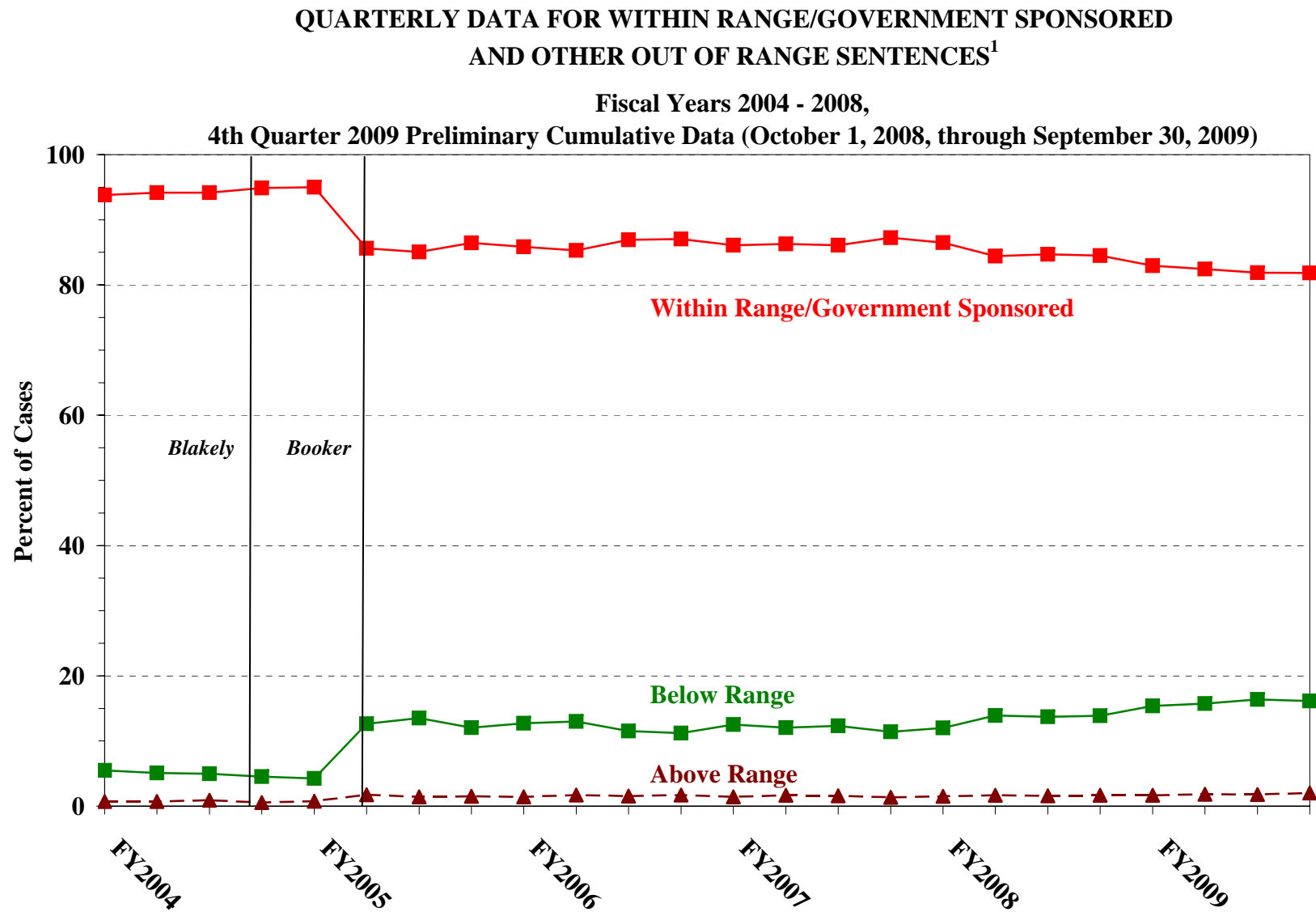
Figure A

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
Fiscal Years 2004 - 2008,
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)



¹Descriptions of variables used in this table are provided in Appendix A.

Figure B



¹Descriptions of variables used in this table are provided in Appendix A.

Table 4

QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES¹
Fiscal Years 2004 - 2008,
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

FISCAL YEAR	WITHIN GUIDELINE RANGE	GOVERNMENT SPONSORED BELOW RANGE	BELOW RANGE	ABOVE RANGE
Quarter	%	%	%	%
FY2004				
1st Quarter	72.5	21.2	5.5	0.7
2ndQuarter	71.8	22.4	5.1	0.7
3rd Quarter	72.0	22.1	5.0	0.9
4th Quarter	71.9	23.0	4.5	0.6
FY2005				
1st Quarter	70.5	24.5	4.3	0.8
2ndQuarter	62.0	23.6	12.6	1.7
3rd Quarter	61.8	23.3	13.5	1.4
4th Quarter	62.3	24.2	12.0	1.5
FY2006				
1st Quarter	61.8	24.0	12.7	1.4
2ndQuarter	60.8	24.5	13.0	1.7
3rd Quarter	62.1	24.8	11.5	1.6
4th Quarter	62.1	24.9	11.2	1.7
FY2007				
1st Quarter	60.7	25.3	12.5	1.4
2ndQuarter	61.3	25.0	12.0	1.7
3rd Quarter	59.9	26.3	12.3	1.6
4th Quarter	61.4	25.8	11.4	1.4
FY2008				
1st Quarter	60.0	26.5	12.0	1.5
2ndQuarter	58.9	25.5	13.9	1.7
3rd Quarter	59.6	25.1	13.7	1.6
4th Quarter	59.2	25.3	13.9	1.7
FY2009				
1st Quarter	58.5	24.5	15.4	1.7
2ndQuarter	57.4	25.0	15.7	1.8
3rd Quarter	56.0	25.8	16.4	1.8
4th Quarter	55.9	25.9	16.1	2.0

¹Descriptions of variables used in this table are provided in Appendix A.

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
BY EACH PRIMARY SENTENCING GUIDELINE¹**

4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

Guideline	Total	Within Guideline Range	Upward				Government Sponsored			Downward			
			Departure		Above Range		\$5K1.1	\$5K3.1	Other Gov't	Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others				Gdline Only	with Booker	with Booker	All Others
\$2A1.1	202	103	0	0	1	0	51	0	23	4	1	15	4
\$2A1.2	37	18	5	1	0	0	3	0	6	0	1	2	1
\$2A1.3	28	17	2	0	4	0	0	0	1	3	0	1	0
\$2A1.4	38	21	2	2	4	0	0	0	1	4	0	4	0
\$2A1.5	31	17	2	0	1	0	5	0	2	0	0	4	0
\$2A2.1	81	46	2	1	1	1	7	0	7	2	1	10	3
\$2A2.2	381	216	16	4	16	0	10	1	52	13	8	44	1
\$2A2.3	26	18	1	0	2	0	0	0	0	1	0	4	0
\$2A2.4	123	76	0	1	3	1	1	0	9	8	1	17	6
\$2A3.1	98	49	3	1	5	0	4	0	17	2	1	15	1
\$2A3.2	35	22	1	0	1	0	1	0	1	0	0	9	0
\$2A3.3	7	6	0	0	0	0	0	0	0	0	0	1	0
\$2A3.4	40	29	2	0	2	1	0	0	1	0	1	4	0
\$2A3.5	221	164	1	1	8	0	0	1	3	4	3	33	3
\$2A4.1	81	30	1	0	3	0	16	4	17	0	0	10	0
\$2A4.2	1	0	0	0	0	0	1	0	0	0	0	0	0
\$2A5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2A5.2	18	12	0	0	0	0	0	0	1	0	0	4	1
\$2A5.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2A6.1	142	79	4	2	3	0	2	0	12	7	2	28	3
\$2A6.2	8	5	0	1	0	0	0	0	0	1	0	1	0
\$2B1.1	7,762	4,689	47	20	116	21	980	8	238	130	99	1,245	169
\$2B1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B1.4	12	3	0	0	0	0	4	0	0	0	1	4	0
\$2B1.5	14	4	0	0	0	0	4	0	1	0	0	3	2
\$2B1.6 ²	--	--	--	--	--	--	--	--	--	--	--	--	--
\$2B2.1	55	43	0	0	3	1	3	0	0	2	1	2	0
\$2B2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B2.3	8	8	0	0	0	0	0	0	0	0	0	0	0
\$2B3.1	1,701	923	30	14	42	7	290	1	69	27	30	249	19
\$2B3.2	43	19	0	1	1	0	4	0	9	0	0	9	0
\$2B3.3	17	9	0	0	0	0	1	0	2	1	2	2	0
\$2B4.1	38	14	0	0	0	0	13	0	0	0	1	9	1
\$2B5.1	415	277	3	1	3	2	48	1	6	5	3	59	7
\$2B5.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B5.3	198	72	1	0	0	0	47	0	10	8	5	49	6
\$2B5.4	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B6.1	14	6	0	0	0	0	3	0	3	0	0	2	0
\$2C1.1	262	89	0	0	2	0	85	1	11	4	4	63	3
\$2C1.2	16	8	0	0	0	0	3	0	0	1	0	3	1
\$2C1.3	12	12	0	0	0	0	0	0	0	0	0	0	0
\$2C1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.7	10	3	0	0	0	0	6	0	0	0	0	1	0
\$2C1.8	8	1	0	0	0	0	3	0	2	0	1	1	0
\$2D1.1	23,592	11,032	57	11	99	19	6,043	1,374	867	415	267	3,192	216
\$2D1.2	468	286	2	1	2	4	73	2	16	5	10	60	7
\$2D1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2D1.4	0	0	0	0	0	0	0	0	0	0	0	0	0

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward Departure		Above Range		Government Sponsored			Downward Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others	\$5K1.1	\$5K3.1	Other Gov't	Gdline Only	with Booker	with Booker	All Others
§2H4.1	5	3	0	0	1	0	0	0	0	0	0	0	1
§2H4.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.2	146	60	2	1	4	0	28	0	9	6	1	31	4
§2J1.3	66	19	0	0	1	0	11	0	4	3	5	22	1
§2J1.4	20	16	0	0	1	0	0	0	0	0	1	2	0
§2J1.5	1	1	0	0	0	0	0	0	0	0	0	0	0
§2J1.6	56	42	0	1	2	0	0	0	0	0	1	9	1
§2J1.7	1	1	0	0	0	0	0	0	0	0	0	0	0
§2J1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.9	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.1	4	4	0	0	0	0	0	0	0	0	0	0	0
§2K1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.3	23	9	0	0	1	0	2	0	5	0	1	4	1
§2K1.4	73	42	0	1	1	0	18	0	3	0	1	7	0
§2K1.5	4	4	0	0	0	0	0	0	0	0	0	0	0
§2K1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.1	6,222	3,947	40	26	80	7	569	14	196	138	91	1,044	70
§2K2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.4 ³	--	--	--	--	--	--	--	--	--	--	--	--	--
§2K2.5	8	7	0	0	1	0	0	0	0	0	0	0	0
§2K2.6	2	2	0	0	0	0	0	0	0	0	0	0	0
§2K3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L1.1	3,232	1,602	28	13	18	7	179	964	133	56	16	179	37
§2L1.2	16,840	9,999	59	19	234	14	68	4,257	521	474	94	965	136
§2L1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.1	371	205	0	0	8	1	69	0	22	9	3	43	11
§2L2.2	1,615	1,470	12	3	24	0	15	12	11	10	2	32	24
§2L2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.1	2	0	0	0	0	0	0	0	0	0	0	2	0
§2M2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.1	1	0	0	0	0	0	0	0	1	0	0	0	0
§2M3.2	2	1	0	0	0	0	0	0	1	0	0	0	0
§2M3.3	1	1	0	0	0	0	0	0	0	0	0	0	0
§2M3.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.9	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M5.1	10	1	0	0	0	0	4	0	0	0	1	2	2
§2M5.2	60	21	0	0	2	0	7	0	1	7	2	18	2
§2M5.3	10	2	0	0	0	0	1	0	0	0	0	7	0
§2M6.1	2	2	0	0	0	0	0	0	0	0	0	0	0
§2M6.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2N1.1	3	0	0	0	0	0	0	0	1	0	0	2	0
§2N1.2	2	0	0	0	0	0	1	0	0	0	0	1	0

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward Departure		Above Range		Government Sponsored			Downward Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others	\$5K1.1	\$5K3.1	Other Gov't	Gdline Only	with Booker	with Booker	All Others
§2N1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2N2.1	32	32	0	0	0	0	0	0	0	0	0	0	0
§2N3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2P1.1	243	183	1	1	4	2	7	5	7	5	2	24	2
§2P1.2	112	81	0	2	2	1	5	0	12	3	0	5	1
§2P1.3	5	2	0	0	0	0	0	0	3	0	0	0	0
§2P1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.2	36	9	0	0	0	0	5	0	5	5	3	9	0
§2Q1.3	46	21	0	0	0	0	7	0	2	8	1	6	1
§2Q1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q2.1	126	67	1	0	0	0	17	0	12	0	1	20	8
§2Q2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2R1.1	12	0	0	0	0	0	11	0	1	0	0	0	0
§2S1.1	931	334	2	2	7	3	294	4	69	8	22	172	14
§2S1.2	3	2	0	0	0	0	0	0	0	0	1	0	0
§2S1.3	238	120	2	0	0	0	30	4	16	1	5	53	7
§2S1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.1	535	203	2	1	2	0	82	0	33	17	22	167	6
§2T1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.4	128	44	0	1	1	0	21	0	9	4	5	40	3
§2T1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.6	26	13	0	0	0	0	1	0	1	0	1	10	0
§2T1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.9	14	4	0	0	0	0	5	0	0	0	0	5	0
§2T2.1	6	4	0	0	0	0	0	0	0	1	0	1	0
§2T2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T3.1	16	13	0	0	0	0	1	0	0	0	0	2	0
§2T3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X1.1	15	8	0	0	0	0	2	0	1	0	0	4	0
§2X2.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X3.1	132	61	1	1	3	0	27	1	2	4	5	25	2
§2X4.1	435	250	3	1	7	0	50	1	33	14	4	65	7
§2X5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X5.2	172	155	0	0	8	2	0	0	3	0	0	3	1
§2X6.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X7.1	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	71,332	39,037	357	146	793	100	9,506	6,655	2,717	1,471	808	8,900	842

¹Of the 78,832 cases, 7,500 were excluded due to one or both of the following reasons: missing information from the submitted documents that prevented the comparison of the sentence and the guideline range (1,693) or missing guideline applied (7,438). Descriptions of variables used in this table are provided in Appendix A.

²In 914 cases the defendant was convicted of one or more counts of violating 18 U.S.C. § 1028A. By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 914 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

³In 2,441 cases the defendant was convicted of one or more counts of violating 18 U.S.C. § 924(c). By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 2,441 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

Table 6

**SENTENCES RELATIVE TO THE GUIDELINE RANGE
IN EACH OUTSIDE OF THE RANGE ATTRIBUTION CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

	TOTAL CASES	Pursuant to a Plea Agreement									
		§5K1.1		§5K3.1		Binding Plea		Plea w/ Departure Court		Plea Agreement States Gov't	
		Plea Agreement		Plea Agreement		Accepted by Court		Finds Reasonable		Will Not Oppose	
		N	%	N	%	N	%	N	%	N	%
TOTAL	33,194	6,514	19.6	6,780	20.4	2,534	7.6	1,495	4.5	154	0.5
Above Range	1,414	8	0.6	11	0.8	208	14.7	91	6.4	2	0.1
Upward Departure From Guideline Range	360	3	0.8	3	0.8	87	24.2	47	13.1	1	0.3
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	148	0	0.0	1	0.7	31	20.9	12	8.1	1	0.7
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	798	0	0.0	0	0.0	87	10.9	32	4.0	0	0.0
All Remaining Cases Above Guideline Range	108	5	4.6	7	6.5	3	2.8	0	0.0	0	0.0
Government Sponsored Below Range	19,518	6,506	33.3	6,769	34.7	2,326	11.9	1,404	7.2	152	0.8
§5K1.1 Substantial Assistance Departure	9,599	6,506	67.8	88	0.9	187	1.9	175	1.8	28	0.3
§5K3.1 Early Disposition Program Departure	7,087	0	0.0	6,681	94.3	886	12.5	326	4.6	19	0.3
Other Government Sponsored Below Range	2,832	0	0.0	0	0.0	1,253	44.2	903	31.9	105	3.7
Below Range	12,262	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure From Guideline Range	1,501	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553	815	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	9,038	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	908	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

Table 6 (cont.)

	Pursuant to a Motion Not in a Plea Agreement										Other than a Plea/Motion by Parties		No Information Available	
	§5K1.1 Government Motion		§5K3.1 Government Motion		Other Government Motion		Defense Motion/ Government Did Not Object		Defense Motion/ Government Did Object					
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	2,922	8.8	219	0.7	823	2.5	3,223	9.7	3,802	11.5	5,562	16.8	3,979	12.0
Above Range	3	0.2	0	0.0	182	12.9	11	0.8	8	0.6	703	49.7	314	22.2
Upward Departure From Guideline Range	1	0.3	0	0.0	50	13.9	3	0.8	1	0.3	137	38.1	52	14.4
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	49	33.1	3	2.0	2	1.4	101	68.2	28	18.9
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	83	10.4	5	0.6	4	0.5	457	57.3	146	18.3
All Remaining Cases Above Guideline Range	2	1.9	0	0.0	0	0.0	0	0.0	1	0.9	8	7.4	88	81.5
Government Sponsored Below Range	2,919	15.0	219	1.1	641	3.3	826	4.2	557	2.9	785	4.0	555	2.8
§5K1.1 Substantial Assistance Departure	2,919	30.4	2	0.0	188	2.0	342	3.6	272	2.8	398	4.1	215	2.2
§5K3.1 Early Disposition Program Departure	0	0.0	217	3.1	33	0.5	252	3.6	187	2.6	141	2.0	198	2.8
Other Government Sponsored Below Range	0	0.0	0	0.0	420	14.8	232	8.2	98	3.5	246	8.7	142	5.0
Below Range	0	0.0	0	0.0	0	0.0	2,386	19.5	3,237	26.4	4,074	33.2	3,110	25.4
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	523	34.8	326	21.7	460	30.6	221	14.7
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	232	28.5	355	43.6	441	54.1	171	21.0
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	1,602	17.7	2,529	28.0	3,146	34.8	1,892	20.9
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	29	3.2	27	3.0	27	3.0	826	91.0

¹Multiple attributions may be made on the SOR. Therefore, the numbers reported in this table may exceed the number of total cases. For example, among SORs with an attribution, 4,319 cases indicated more than one attribution. Note that only outside of the range cases are included in this table. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

**§5K1.1 SUBSTANTIAL ASSISTANCE DEPARTURE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	9,062	36.0	30.0	48.6
Murder	10	73.5	77.0	44.4
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	8	114.0	92.0	39.4
Sexual Abuse	10	49.0	51.5	46.2
Assault	8	25.0	13.0	43.0
Robbery	110	38.5	23.0	34.8
Arson	15	36.0	34.0	55.0
Drugs - Trafficking	5,733	48.0	42.0	45.8
Drugs - Communication Facility	86	0.0	11.0	100.0
Drugs - Simple Possession	10	0.0	7.5	100.0
Firearms	875	60.0	32.0	42.7
Burglary/B&E	2	--	--	--
Auto Theft	12	32.5	37.5	51.9
Larceny	80	5.0	10.0	63.8
Fraud	949	10.0	15.0	66.1
Embezzlement	11	0.0	10.0	100.0
Forgery/Counterfeiting	92	7.5	9.2	54.3
Bribery	51	8.0	18.0	60.9
Tax	81	0.0	12.0	100.0
Money Laundering	181	12.0	25.0	65.7
Racketeering/Extortion	94	24.0	23.0	51.9
Gambling/Lottery	13	0.0	6.0	100.0
Civil Rights	8	12.5	60.0	93.1
Immigration	298	12.0	9.6	44.5
Pornography/Prostitution	70	37.0	26.5	49.5
Prison Offenses	14	5.2	8.0	56.9
Administration of Justice Offenses	97	0.0	12.0	100.0
Environmental/Wildlife	21	0.0	12.0	100.0
National Defense	6	17.0	28.0	63.0
Antitrust	12	12.0	29.0	65.3
Food & Drug	8	0.0	12.0	100.0
Other Miscellaneous Offenses	97	0.0	13.0	100.0

¹Of the 78,832 cases, 9,599 received a §5K1.1 substantial assistance departure. Of these, 9,207 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 138 cases were also excluded from this table. Of the remaining 9,069 cases, seven were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

**§5K3.1 EARLY DISPOSITION PROGRAM DEPARTURE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	6,518	18.0	7.0	33.2
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	2	--	--	--
Sexual Abuse	1	--	--	--
Assault	2	--	--	--
Robbery	1	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	1,343	13.0	9.0	40.0
Drugs - Communication Facility	2	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	17	57.0	13.0	19.8
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	1	--	--	--
Fraud	7	0.2	12.0	80.0
Embezzlement	0	--	--	--
Forgery/Counterfeiting	1	--	--	--
Bribery	1	--	--	--
Tax	0	--	--	--
Money Laundering	7	0.0	9.0	100.0
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	5,125	18.0	6.0	28.6
Pornography/Prostitution	0	--	--	--
Prison Offenses	5	6.0	2.0	25.0
Administration of Justice Offenses	2	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	1	--	--	--

¹Of the 78,832 cases, 7,087 received a §5K3.1 early disposition program departure. Of these, 6,520 had complete guideline application information. Of the remaining 6,520 cases, two were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**OTHER GOVERNMENT SPONSORED BELOW RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	2,605	26.0	12.0	33.3
Murder	3	240.0	28.0	13.8
Manslaughter	2	--	--	--
Kidnapping/Hostage Taking	7	168.0	42.0	20.0
Sexual Abuse	24	54.0	47.5	45.9
Assault	58	21.0	15.8	52.7
Robbery	33	57.0	22.0	26.9
Arson	1	--	--	--
Drugs - Trafficking	798	60.0	22.0	28.6
Drugs - Communication Facility	24	27.0	18.5	48.9
Drugs - Simple Possession	2	--	--	--
Firearms	264	44.0	16.0	30.0
Burglary/B&E	0	--	--	--
Auto Theft	3	100.0	29.3	16.7
Larceny	32	0.0	10.0	100.0
Fraud	201	12.0	12.0	55.4
Embezzlement	10	0.0	6.0	99.8
Forgery/Counterfeiting	11	12.0	14.0	57.2
Bribery	4	6.2	20.9	76.0
Tax	34	3.0	10.0	75.0
Money Laundering	56	13.0	20.5	57.5
Racketeering/Extortion	74	57.0	22.0	25.4
Gambling/Lottery	4	0.0	6.0	100.0
Civil Rights	2	--	--	--
Immigration	656	12.0	5.5	33.2
Pornography/Prostitution	150	63.0	37.0	33.3
Prison Offenses	22	18.0	9.0	37.3
Administration of Justice Offenses	52	1.7	13.5	85.7
Environmental/Wildlife	15	1.0	6.0	96.7
National Defense	1	--	--	--
Antitrust	1	--	--	--
Food & Drug	7	0.0	12.0	100.0
Other Miscellaneous Offenses	54	0.0	12.0	100.0

¹Of the 78,832 cases, 2,832 received an other government sponsored downward departure. Of these, 2,629 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 16 cases were also excluded from this table. Of the remaining 2,613 cases, eight were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

**DOWNWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,419	24.0	10.0	28.6
Murder	0	--	--	--
Manslaughter	7	13.0	18.0	56.7
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	7	41.0	10.0	40.0
Assault	23	18.0	7.0	25.0
Robbery	22	37.0	12.0	24.0
Arson	0	--	--	--
Drugs - Trafficking	381	51.0	15.0	25.0
Drugs - Communication Facility	14	27.0	15.0	35.3
Drugs - Simple Possession	5	1.0	11.0	85.0
Firearms	150	30.0	10.0	21.7
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	15	0.0	10.0	100.0
Fraud	93	12.0	10.0	55.6
Embezzlement	8	6.8	10.2	66.2
Forgery/Counterfeiting	9	0.0	12.0	100.0
Bribery	3	0.0	30.0	100.0
Tax	18	0.5	10.0	95.7
Money Laundering	5	24.0	10.0	22.1
Racketeering/Extortion	11	40.0	17.4	21.7
Gambling/Lottery	2	--	--	--
Civil Rights	0	--	--	--
Immigration	539	18.0	6.0	26.0
Pornography/Prostitution	31	60.0	24.0	23.1
Prison Offenses	8	8.6	3.0	13.9
Administration of Justice Offenses	27	0.0	9.8	100.0
Environmental/Wildlife	7	5.0	12.0	76.2
National Defense	6	15.0	18.5	55.6
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	27	4.0	9.0	83.3

¹Of the 78,832 cases, 1,501 received a downward departure from the guideline range. Of these, 1,424 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional three cases were also excluded from this table. Of the remaining 1,421 cases, two were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**DOWNWARD DEPARTURES WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	762	24.0	18.0	42.9
Murder	1	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	7	15.0	10.0	33.2
Assault	11	15.0	16.0	64.7
Robbery	24	39.5	21.5	32.5
Arson	1	--	--	--
Drugs - Trafficking	265	60.0	26.0	31.9
Drugs - Communication Facility	8	6.0	42.0	87.3
Drugs - Simple Possession	0	--	--	--
Firearms	93	18.0	17.0	42.7
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	12	0.0	9.5	100.0
Fraud	77	4.0	12.0	81.5
Embezzlement	10	0.0	11.0	99.9
Forgery/Counterfeiting	10	0.0	9.0	100.0
Bribery	1	--	--	--
Tax	25	2.0	12.0	83.3
Money Laundering	20	17.5	16.5	53.4
Racketeering/Extortion	6	16.0	27.5	72.8
Gambling/Lottery	2	--	--	--
Civil Rights	1	--	--	--
Immigration	109	24.0	16.0	38.6
Pornography/Prostitution	48	60.0	41.5	45.3
Prison Offenses	2	--	--	--
Administration of Justice Offenses	12	8.5	14.0	55.6
Environmental/Wildlife	3	0.0	8.0	100.0
National Defense	2	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	11	0.0	10.0	100.0

¹Of the 78,832 cases, 815 received a downward departure from the guideline range with *Booker* /18 U.S.C § 3553. Of these, 766 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional three cases were also excluded from this table. Of the remaining 763 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

**BELOW GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	8,591	27.0	13.0	34.8
Murder	3	120.0	90.0	54.2
Manslaughter	4	12.0	10.5	50.0
Kidnapping/Hostage Taking	3	168.0	35.0	14.9
Sexual Abuse	55	22.0	15.0	35.6
Assault	79	12.0	9.0	55.4
Robbery	152	44.0	16.1	23.1
Arson	7	12.0	22.0	49.9
Drugs - Trafficking	2,990	60.0	18.0	27.6
Drugs - Communication Facility	92	12.0	16.0	55.4
Drugs - Simple Possession	7	6.0	26.0	60.0
Firearms	1,195	30.0	14.0	28.3
Burglary/B&E	1	--	--	--
Auto Theft	8	18.0	13.5	34.4
Larceny	153	0.0	10.0	100.0
Fraud	1,021	12.0	10.0	50.0
Embezzlement	81	1.0	8.0	91.7
Forgery/Counterfeiting	99	0.0	9.0	100.0
Bribery	35	12.0	9.0	49.9
Tax	186	6.0	10.0	66.7
Money Laundering	156	15.0	15.0	52.5
Racketeering/Extortion	89	30.0	18.0	34.8
Gambling/Lottery	7	0.0	6.0	100.0
Civil Rights	12	6.0	14.5	90.5
Immigration	1,171	24.0	10.6	33.3
Pornography/Prostitution	599	60.0	31.0	36.4
Prison Offenses	32	10.0	7.5	38.8
Administration of Justice Offenses	148	0.2	10.0	98.9
Environmental/Wildlife	23	0.0	12.0	100.0
National Defense	17	30.0	12.0	40.0
Antitrust	2	--	--	--
Food & Drug	6	6.0	11.5	50.0
Other Miscellaneous Offenses	158	0.0	10.0	100.0

¹Of the 78,832 cases, 9,038 were sentenced below the guideline range with *Booker* /18 U.S.C § 3553. Of these, 8,636 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 37 cases were also excluded from this table. Furthermore, one case was excluded due to several logical criteria. Of the remaining 8,598 cases, seven were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ALL REMAINING BELOW GUIDELINE RANGE CASES: DEGREE OF
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	784	12.0	6.0	37.3
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	3	9.8	8.0	45.8
Assault	8	4.0	7.5	68.3
Robbery	5	48.0	11.0	20.0
Arson	0	--	--	--
Drugs - Trafficking	179	57.0	12.0	26.8
Drugs - Communication Facility	6	21.0	6.0	50.0
Drugs - Simple Possession	4	1.2	4.0	89.6
Firearms	102	60.0	12.0	20.9
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	31	0.0	6.0	100.0
Fraud	115	3.0	6.0	72.2
Embezzlement	11	0.0	6.0	100.0
Forgery/Counterfeiting	10	8.0	5.5	45.8
Bribery	2	--	--	--
Tax	10	0.0	6.0	100.0
Money Laundering	14	8.5	23.5	71.8
Racketeering/Extortion	3	60.0	5.0	14.3
Gambling/Lottery	1	--	--	--
Civil Rights	3	2.0	11.8	80.0
Immigration	190	8.0	4.0	33.9
Pornography/Prostitution	28	66.0	18.0	22.4
Prison Offenses	3	12.0	6.0	33.3
Administration of Justice Offenses	14	0.0	8.5	99.9
Environmental/Wildlife	9	0.0	8.0	100.0
National Defense	3	42.0	4.0	8.7
Antitrust	0	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	28	0.0	6.0	100.0

¹Of the 78,832 cases, 908 were otherwise sentenced below the guideline range. Of these, 793 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional six cases were also excluded from this table. Of the remaining 787 cases, three were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

**UPWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	348	60.0	14.0	33.3
Murder	6	353.0	102.0	41.9
Manslaughter	4	96.0	26.5	39.8
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	13	240.0	38.0	22.9
Assault	14	78.0	22.5	28.2
Robbery	14	141.0	26.0	24.2
Arson	1	--	--	--
Drugs - Trafficking	55	84.0	16.0	23.7
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	3	36.0	6.0	33.3
Firearms	58	98.5	20.0	29.0
Burglary/B&E	0	--	--	--
Auto Theft	1	--	--	--
Larceny	6	30.0	12.0	125.0
Fraud	39	40.0	14.0	50.0
Embezzlement	0	--	--	--
Forgery/Counterfeiting	7	60.0	18.0	46.3
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	3	50.0	12.0	24.4
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	97	24.0	6.0	33.3
Pornography/Prostitution	11	180.0	37.0	27.7
Prison Offenses	1	--	--	--
Administration of Justice Offenses	6	36.0	10.5	36.7
Environmental/Wildlife	1	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	6	90.0	20.5	38.2

¹Of the 78,832 cases, 360 received an upward departure from the guideline range. Of these, 348 had complete guideline application information. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

**UPWARD DEPARTURES WITH *BOOKER* /18 U.S.C. § 3553: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	136	69.5	18.5	46.3
Murder	0	--	--	--
Manslaughter	1	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	3	108.0	33.0	27.7
Assault	7	84.0	36.0	46.3
Robbery	3	188.0	105.0	116.1
Arson	0	--	--	--
Drugs - Trafficking	10	138.0	31.0	14.5
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	1	--	--	--
Firearms	35	87.0	16.0	37.5
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	2	--	--	--
Fraud	14	52.5	13.0	31.3
Embezzlement	0	--	--	--
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	2	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	7	240.0	98.0	92.1
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	34	44.0	12.0	71.4
Pornography/Prostitution	4	300.0	108.5	67.9
Prison Offenses	3	54.0	14.0	77.8
Administration of Justice Offenses	4	36.0	7.0	25.0
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	3	10.0	3.0	20.0

¹Of the 78,832 cases, 148 received an upward departure from the guideline range with *Booker* /18 U.S.C § 3553. Of these, 140 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, one additional case was also excluded from this table. Furthermore, three cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ABOVE GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE
OF INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	752	48.0	12.0	37.9
Murder	1	--	--	--
Manslaughter	6	146.0	58.5	67.1
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	17	90.0	24.0	33.3
Assault	21	60.0	15.0	39.2
Robbery	24	120.0	22.5	27.0
Arson	0	--	--	--
Drugs - Trafficking	79	102.0	15.0	23.8
Drugs - Communication Facility	4	66.0	12.5	20.1
Drugs - Simple Possession	12	12.0	6.0	83.3
Firearms	108	96.0	15.0	25.7
Burglary/B&E	2	--	--	--
Auto Theft	4	60.0	23.0	62.2
Larceny	10	54.0	15.0	57.3
Fraud	97	60.0	14.0	40.0
Embezzlement	4	48.0	12.5	58.5
Forgery/Counterfeiting	12	37.0	8.5	39.5
Bribery	1	--	--	--
Tax	3	60.0	9.0	17.6
Money Laundering	1	--	--	--
Racketeering/Extortion	9	111.0	33.0	42.3
Gambling/Lottery	1	--	--	--
Civil Rights	1	--	--	--
Immigration	266	18.0	6.0	50.0
Pornography/Prostitution	31	144.0	33.0	33.3
Prison Offenses	6	21.0	7.0	60.0
Administration of Justice Offenses	14	36.0	4.5	20.2
Environmental/Wildlife	0	--	--	--
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	15	15.0	8.0	77.8

¹Of the 78,832 cases, 798 were sentenced above the guideline range with *Booker* /18 U.S.C § 3553. Of these, 760 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, an additional two cases were also excluded from this table. Furthermore, six cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ALL REMAINING ABOVE GUIDELINE RANGE CASES: DEGREE OF
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	62	51.0	9.0	27.2
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	3	72.0	15.0	52.6
Assault	1	--	--	--
Robbery	2	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	14	72.0	8.5	15.4
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	1	--	--	--
Firearms	7	140.0	30.0	29.4
Burglary/B&E	1	--	--	--
Auto Theft	0	--	--	--
Larceny	1	--	--	--
Fraud	8	36.0	10.5	41.7
Embezzlement	0	--	--	--
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	17	36.0	12.0	46.3
Pornography/Prostitution	1	--	--	--
Prison Offenses	1	--	--	--
Administration of Justice Offenses	0	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 78,832 cases, 108 were otherwise sentenced above the guideline range. Of these, 92 had complete guideline application information. An additional 30 cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

Table 18

OFFENDERS RECEIVING SENTENCING OPTIONS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	TOTAL	TOTAL RECEIVING IMPRISONMENT		Prison Only		Prison/Community Split Sentence ²		TOTAL RECEIVING PROBATION		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	78,106	70,139	89.8	68,139	87.2	2,000	2.6	7,967	10.2	2,374	3.0	5,593	7.2
Murder	94	94	100.0	94	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Manslaughter	57	56	98.2	54	94.7	2	3.5	1	1.8	1	1.8	0	0.0
Kidnapping/Hostage Taking	39	39	100.0	38	97.4	1	2.6	0	0.0	0	0.0	0	0.0
Sexual Abuse	462	445	96.3	432	93.5	13	2.8	17	3.7	7	1.5	10	2.2
Assault	637	553	86.8	530	83.2	23	3.6	84	13.2	25	3.9	59	9.3
Robbery	970	952	98.1	930	95.9	22	2.3	18	1.9	8	0.8	10	1.0
Arson	60	59	98.3	57	95.0	2	3.3	1	1.7	1	1.7	0	0.0
Drugs - Trafficking	23,429	22,643	96.6	22,066	94.2	577	2.5	786	3.4	344	1.5	442	1.9
Drugs - Communication Facility	497	381	76.7	366	73.6	15	3.0	116	23.3	41	8.2	75	15.1
Drugs - Simple Possession	585	314	53.7	305	52.1	9	1.5	271	46.3	25	4.3	246	42.1
Firearms	8,084	7,586	93.8	7,380	91.3	206	2.5	498	6.2	190	2.4	308	3.8
Burglary/B&E	36	33	91.7	33	91.7	0	0.0	3	8.3	3	8.3	0	0.0
Auto Theft	74	67	90.5	65	87.8	2	2.7	7	9.5	2	2.7	5	6.8
Larceny	1,398	604	43.2	532	38.1	72	5.2	794	56.8	213	15.2	581	41.6
Fraud	7,175	5,579	77.8	5,186	72.3	393	5.5	1,596	22.2	577	8.0	1,019	14.2
Embezzlement	439	217	49.4	173	39.4	44	10.0	222	50.6	55	12.5	167	38.0
Forgery/Counterfeiting	858	621	72.4	577	67.2	44	5.1	237	27.6	99	11.5	138	16.1
Bribery	164	125	76.2	111	67.7	14	8.5	39	23.8	17	10.4	22	13.4
Tax	607	379	62.4	314	51.7	65	10.7	228	37.6	119	19.6	109	18.0
Money Laundering	781	620	79.4	573	73.4	47	6.0	161	20.6	57	7.3	104	13.3
Racketeering/Extortion	602	557	92.5	544	90.4	13	2.2	45	7.5	15	2.5	30	5.0
Gambling/Lottery	59	28	47.5	21	35.6	7	11.9	31	52.5	10	16.9	21	35.6
Civil Rights	60	35	58.3	33	55.0	2	3.3	25	41.7	10	16.7	15	25.0
Immigration	25,251	24,328	96.3	24,065	95.3	263	1.0	923	3.7	161	0.6	762	3.0
Pornography/Prostitution	1,878	1,825	97.2	1,802	96.0	23	1.2	53	2.8	38	2.0	15	0.8
Prison Offenses	435	416	95.6	404	92.9	12	2.8	19	4.4	7	1.6	12	2.8
Administration of Justice Offenses	938	607	64.7	564	60.1	43	4.6	331	35.3	99	10.6	232	24.7
Environmental/Wildlife	188	59	31.4	45	23.9	14	7.4	129	68.6	26	13.8	103	54.8
National Defense	63	54	85.7	49	77.8	5	7.9	9	14.3	4	6.3	5	7.9
Antitrust	20	17	85.0	16	80.0	1	5.0	3	15.0	1	5.0	2	10.0
Food & Drug	68	15	22.1	12	17.6	3	4.4	53	77.9	10	14.7	43	63.2
Other Miscellaneous Offenses	2,098	831	39.6	768	36.6	63	3.0	1,267	60.4	209	10.0	1,058	50.4

¹Of the 78,832 cases, 726 were excluded due to one or more of the following reasons: the offender received neither imprisonment nor probation (721), missing primary offense category (1), or missing sentencing information (5). Descriptions of variables used in this table are provided in Appendix A.

²Prison/Community Split Sentence includes all cases in which offenders received prison and conditions of confinement as described in USSG §5C1.1.

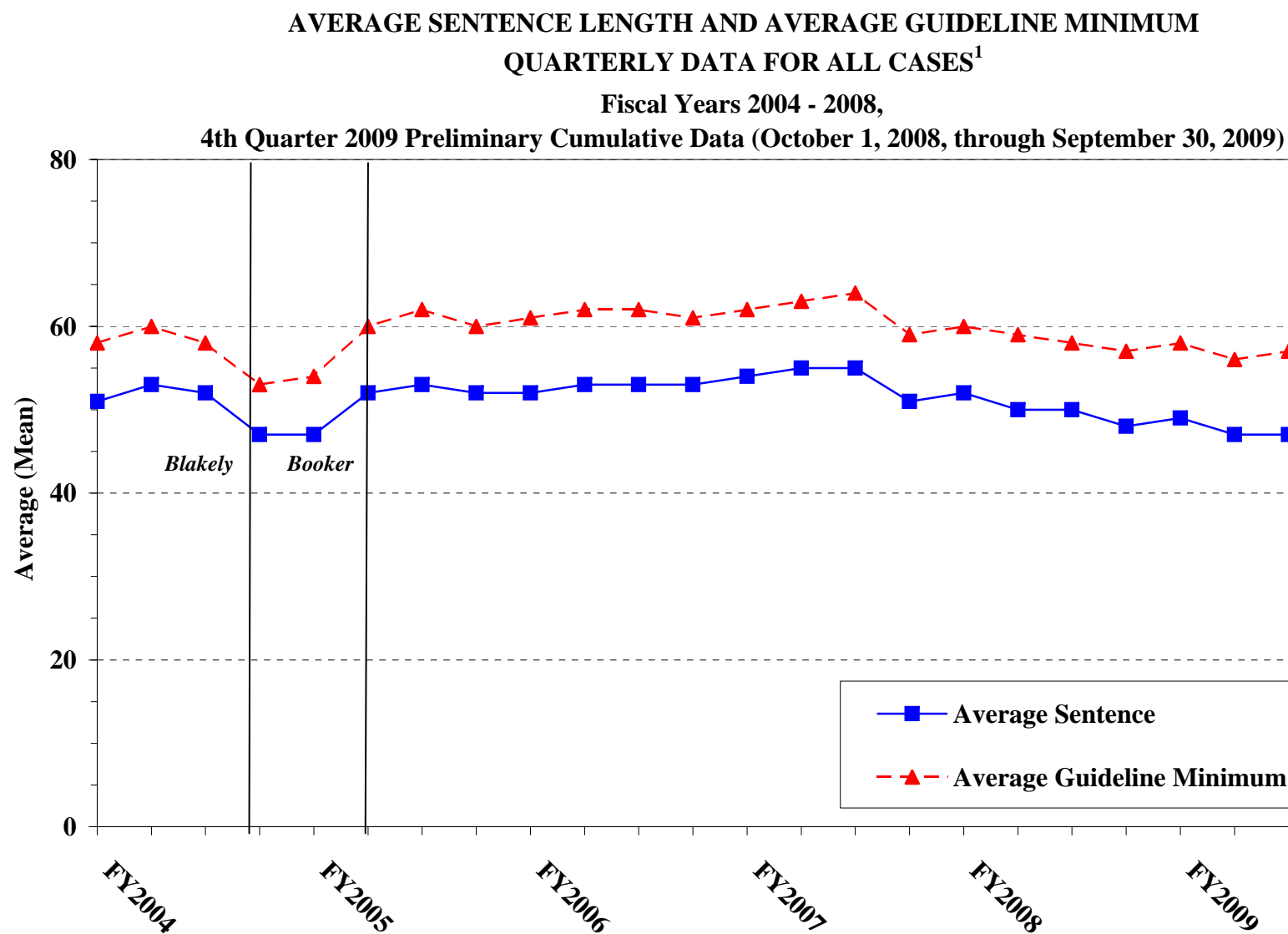
Table 19

AVERAGE SENTENCE LENGTH IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	Mean Months	Median Months	N
TOTAL	47.2	24.0	78,828
Murder	276.6	273.0	94
Manslaughter	65.8	42.0	57
Kidnapping/Hostage Taking	208.1	168.0	39
Sexual Abuse	92.5	57.0	462
Assault	37.7	24.0	644
Robbery	79.7	63.0	974
Arson	58.2	60.0	60
Drugs - Trafficking	77.9	60.0	23,432
Drugs - Communication Facility	33.0	30.0	497
Drugs - Simple Possession	4.6	0.0	633
Firearms	85.7	57.0	8,088
Burglary/B&E	23.5	24.0	36
Auto Theft	61.0	29.1	74
Larceny	7.6	1.0	1,497
Fraud	22.1	12.0	7,208
Embezzlement	8.9	4.0	450
Forgery/Counterfeiting	15.7	12.0	862
Bribery	21.6	12.0	164
Tax	15.8	12.0	608
Money Laundering	33.3	18.0	782
Racketeering/Extortion	94.1	51.0	603
Gambling/Lottery	7.2	6.0	59
Civil Rights	26.9	8.0	61
Immigration	17.5	12.0	25,260
Pornography/Prostitution	118.4	78.0	1,878
Prison Offenses	15.4	12.0	435
Administration of Justice Offenses	14.7	8.0	954
Environmental/Wildlife	4.4	0.0	209
National Defense	41.7	24.0	63
Antitrust	13.2	9.0	21
Food & Drug	4.4	0.0	72
Other Miscellaneous Offenses	6.5	0.0	2,552

¹Of the 78,832 cases, four were excluded due to one or both of the following reasons: missing primary offense (1) or missing or indeterminable sentencing information (4). Sentences of probation only are included in this table as zero months of imprisonment. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

Figure C



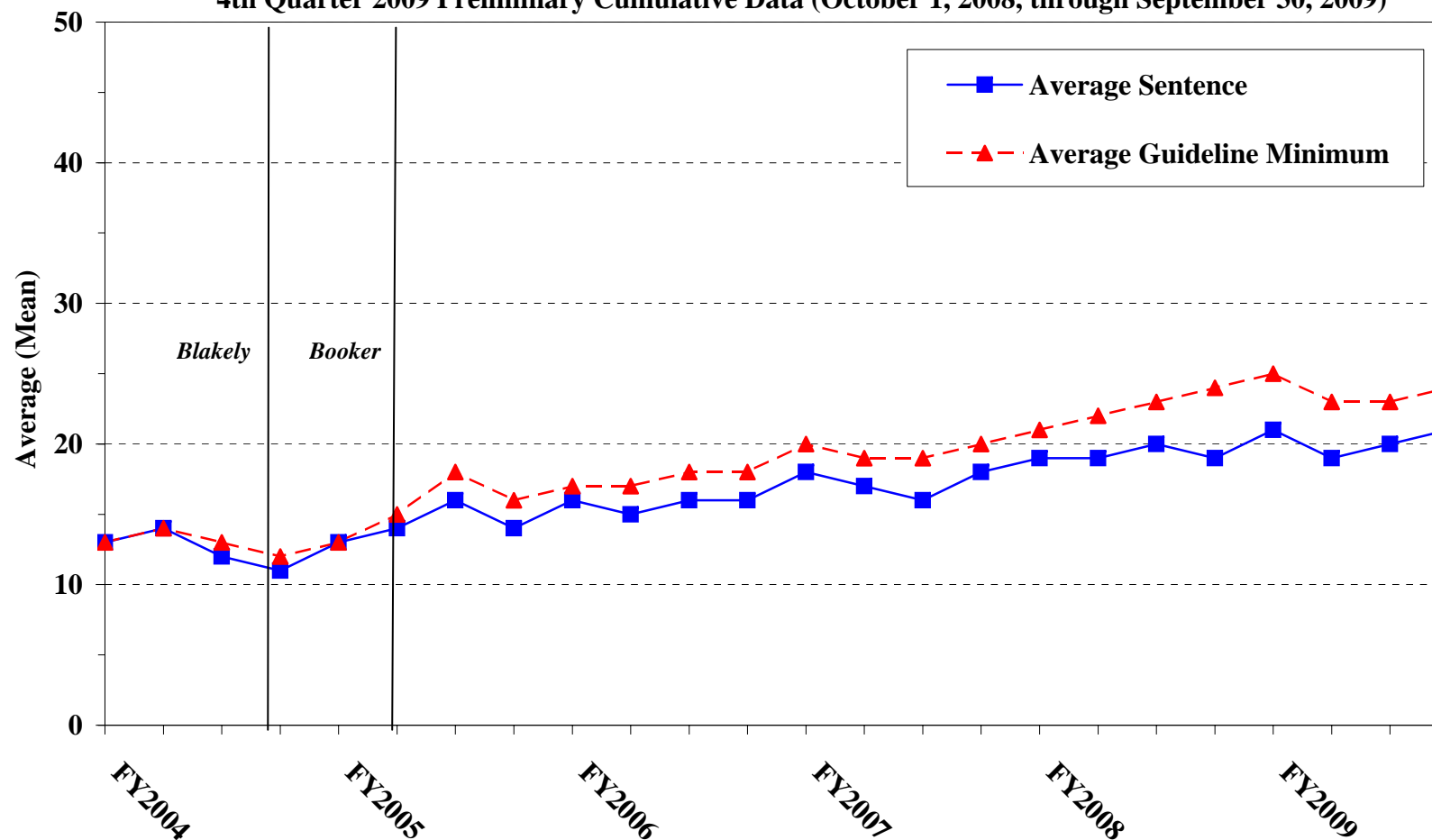
¹Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure D

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY
DATA FOR §2B1.1 OFFENDERS (THEFT, PROPERTY DESTRUCTION, AND FRAUD)¹**

Fiscal Years 2004 - 2008,

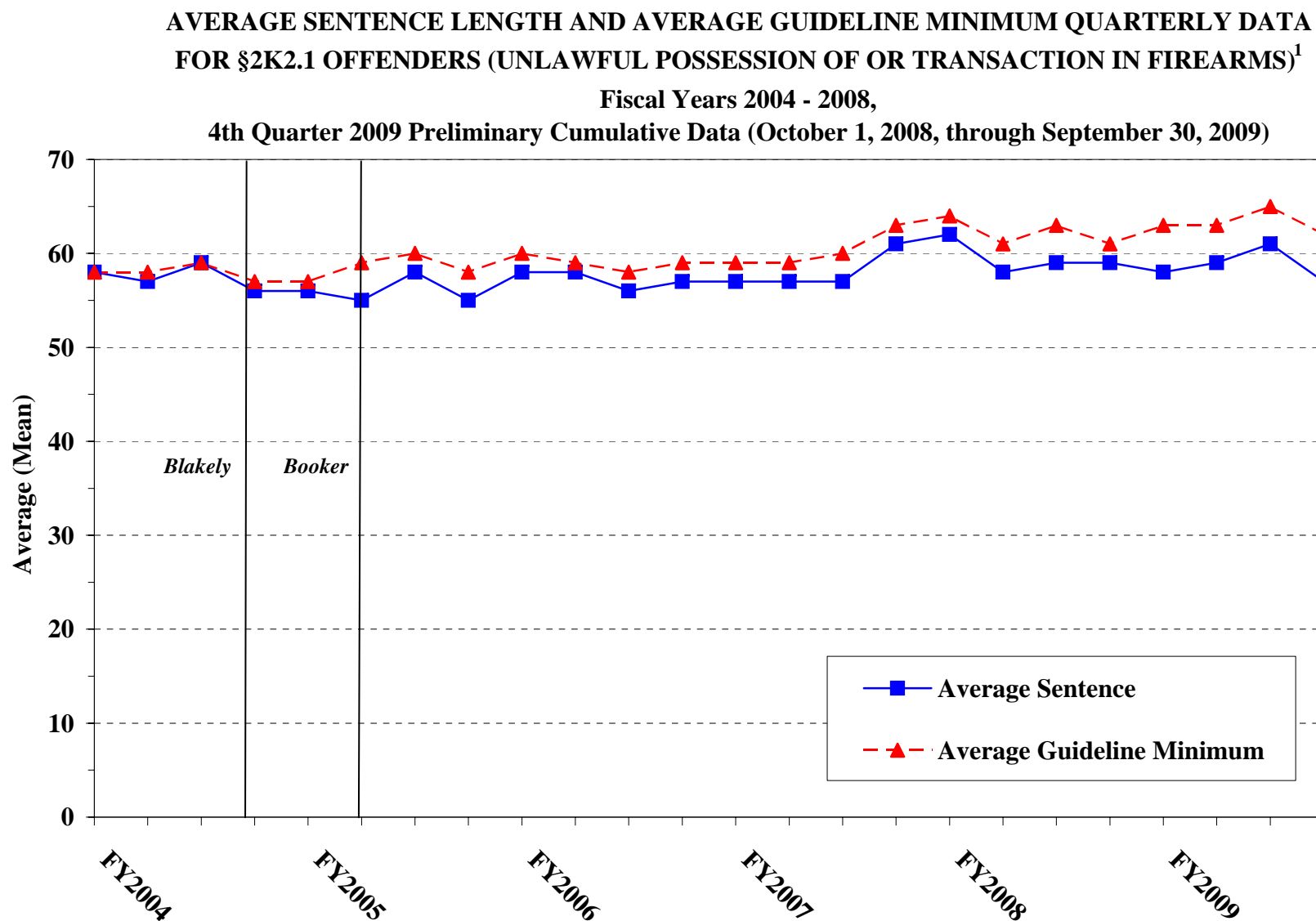
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)



¹Figure includes only cases with a primary sentencing guideline of USSG §2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligation of the United States). Additionally, cases with an amendment year prior to 2001 were excluded from this figure because prior to this time fraud cases were reported separately as USSG §2F1.1. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through September 30, 2009).

Figure E



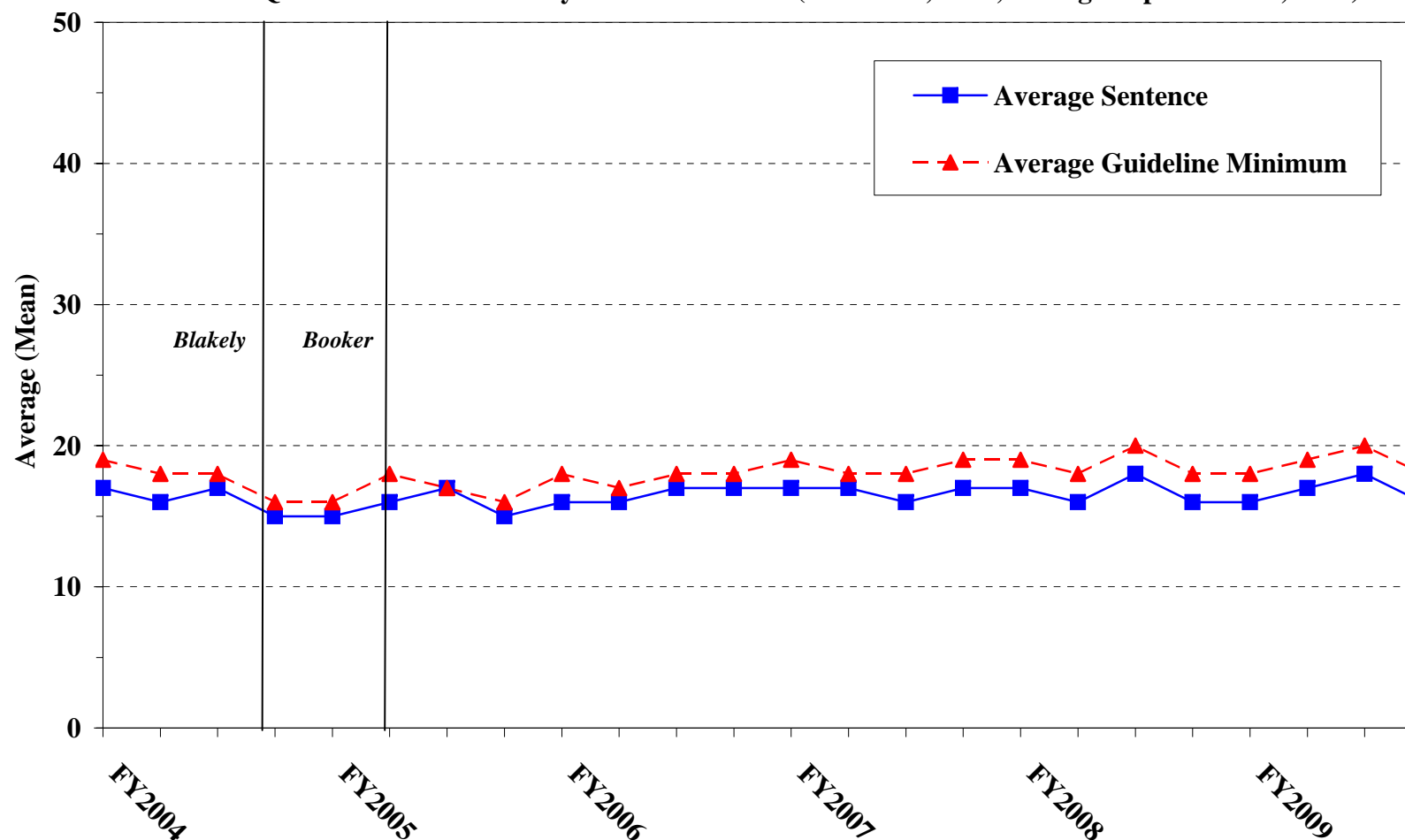
¹Figure includes only cases with a primary sentencing guideline of USSG §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through September 30, 2009).

Figure F

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM
QUARTERLY DATA FOR §2L1.1 OFFENDERS (ALIEN SMUGGLING)¹**

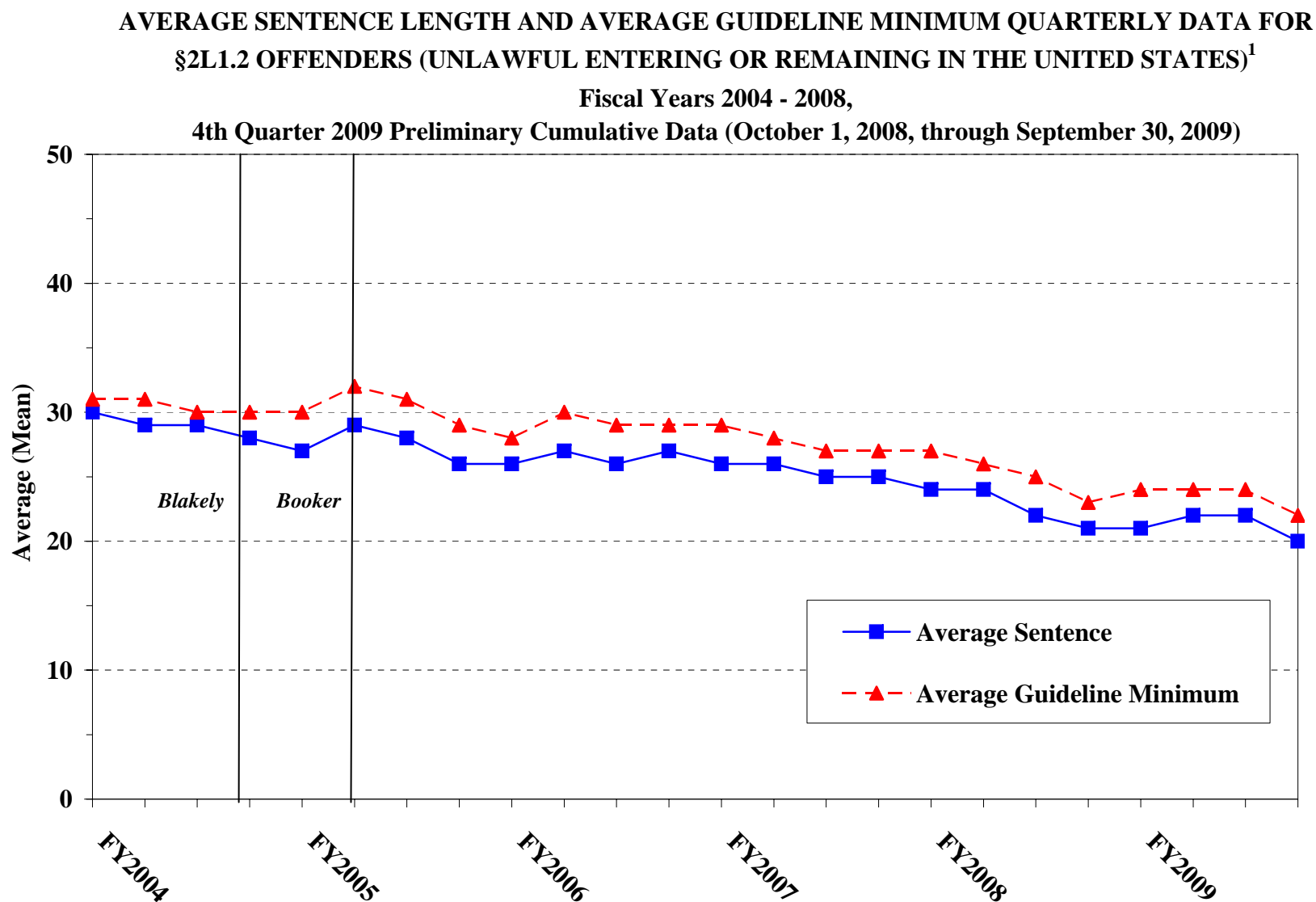
**Fiscal Years 2004 - 2008,
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**



¹Figure includes only cases with a primary sentencing guideline of USSG §2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2004 - 2008 Datafiles, USSCFY04 - USSCFY08, and Preliminary Data from USSCFY09 (October 1, 2008, through September 30, 2009).

Figure G



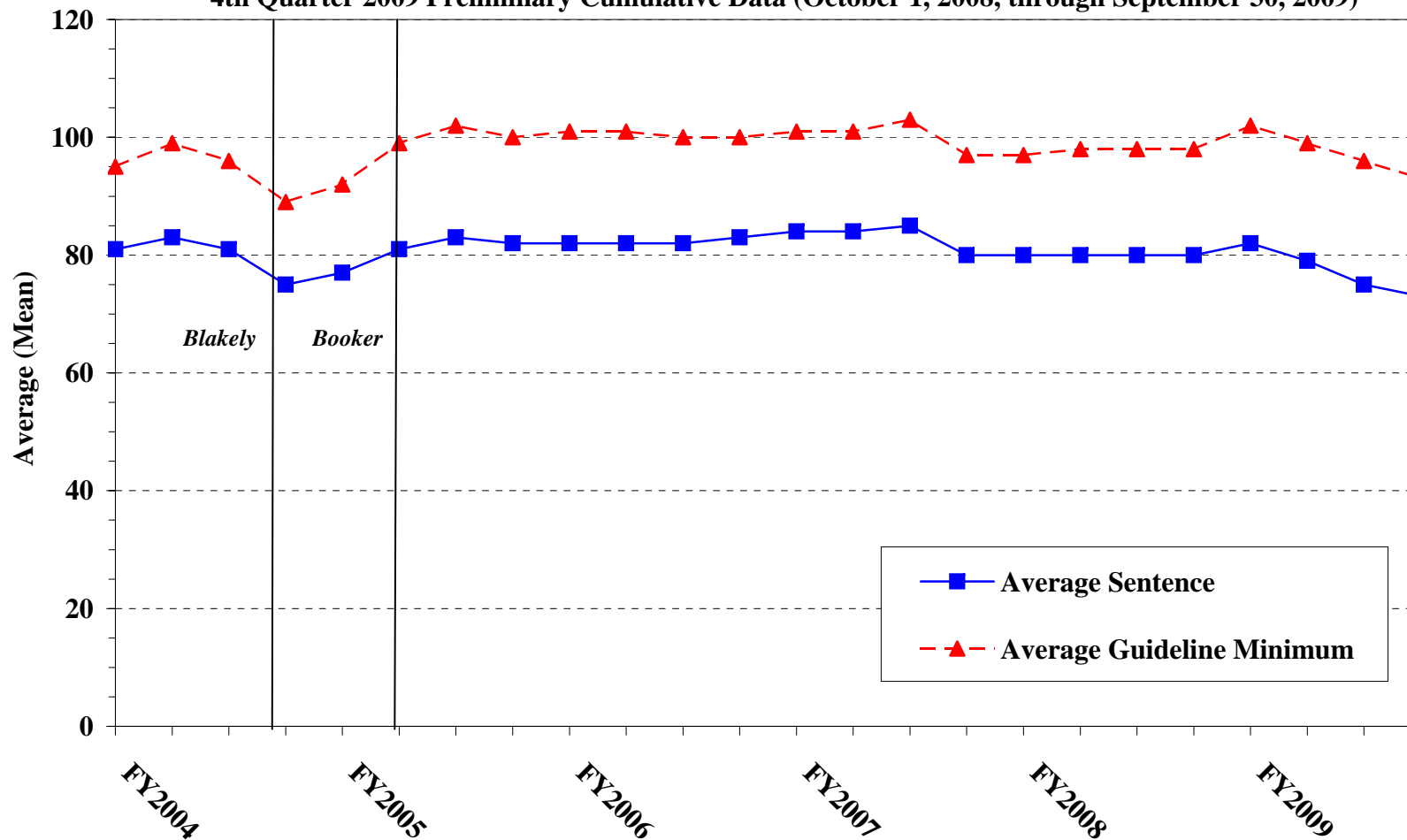
¹Figure includes only cases with a primary sentencing guideline of USSG §2L1.2. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure H

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY
DATA FOR §2D1.1 OFFENDERS (UNLAWFUL DRUG TRAFFICKING OR MANUFACTURING)¹**

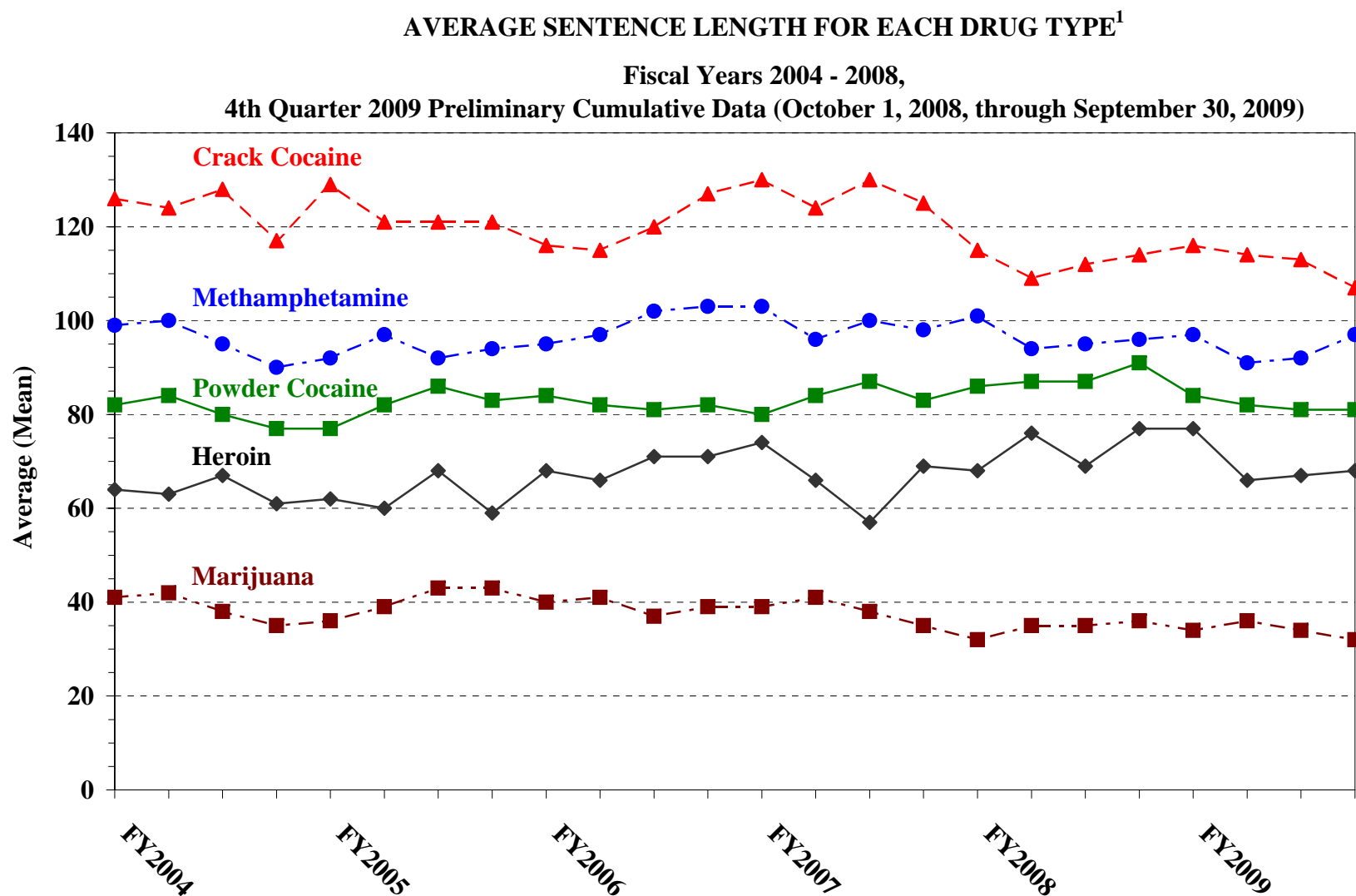
Fiscal Years 2004 - 2008,

4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)



¹Figure includes only cases with a primary sentencing guideline of USSG §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure I



¹Only cases sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), or 2D2.1 (Simple Possession) are depicted in this figure. Figure includes only cases with a primary sentencing guideline of USSG §2D1.1. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

**WITHIN RANGE CASES: POSITION OF SENTENCE FOR OFFENDERS
IN EACH PRIMARY OFFENSE CATEGORY¹**

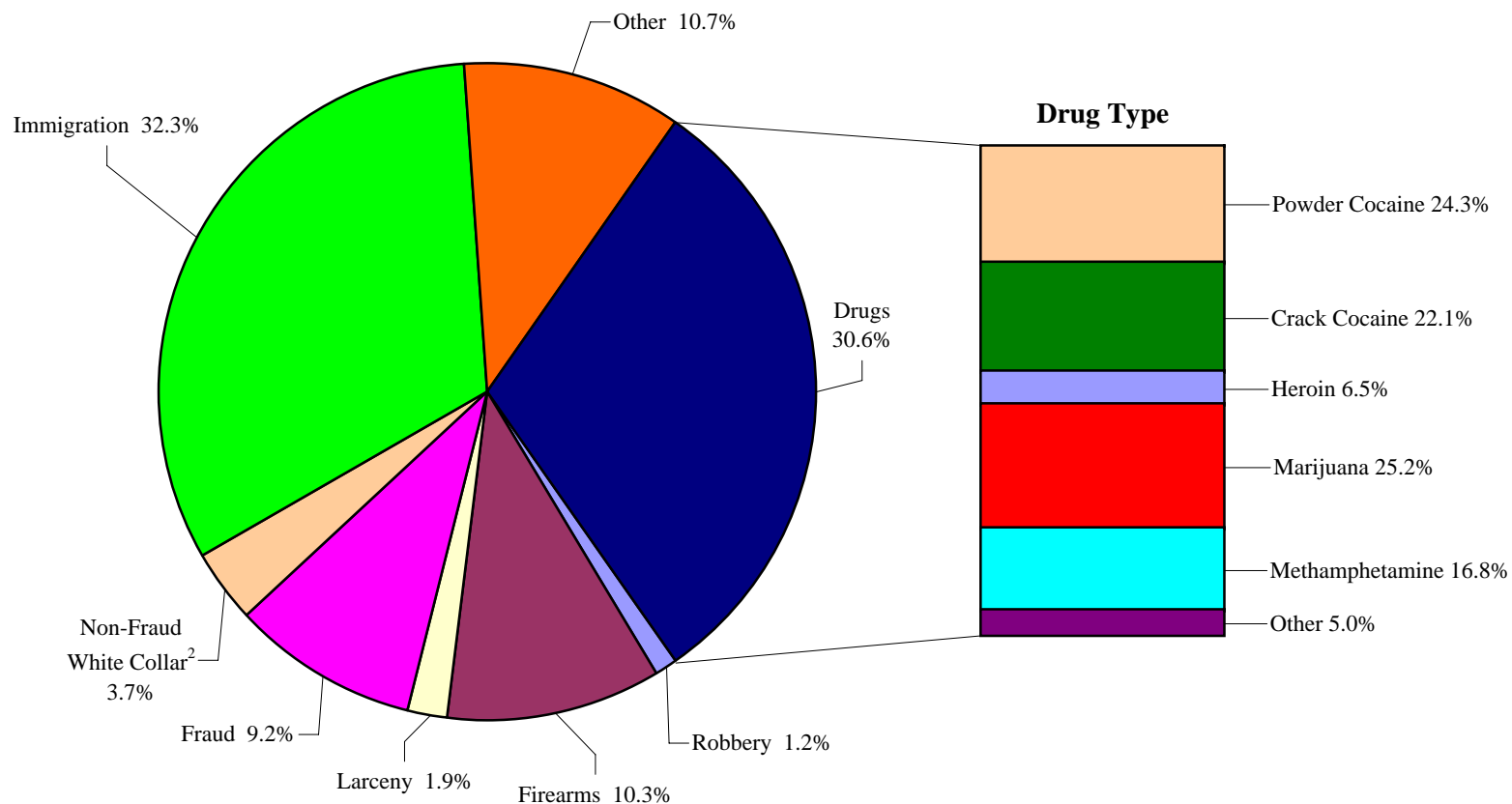
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	TOTAL	Guideline Minimum		Lower Half of Range		Midpoint of Range		Upper Half of Range		Guideline Maximum	
		N	%	N	%	N	%	N	%	N	%
TOTAL	33,877	17,731	52.3	6,302	18.6	3,105	9.2	2,956	8.7	3,783	11.2
Murder	19	6	31.6	2	10.5	1	5.3	3	15.8	7	36.8
Manslaughter	33	9	27.3	4	12.1	4	12.1	5	15.2	11	33.3
Kidnapping/Hostage Taking	7	5	71.4	1	14.3	0	0.0	1	14.3	0	0.0
Sexual Abuse	235	111	47.2	35	14.9	18	7.7	27	11.5	44	18.7
Assault	294	124	42.2	49	16.7	28	9.5	29	9.9	64	21.8
Robbery	533	274	51.4	91	17.1	33	6.2	59	11.1	76	14.3
Arson	16	8	50.0	4	25.0	1	6.3	1	6.3	2	12.5
Drugs - Trafficking	9,187	6,311	68.7	1,249	13.6	625	6.8	415	4.5	587	6.4
Drugs - Communication Facility	105	66	62.9	7	6.7	11	10.5	4	3.8	17	16.2
Drugs - Simple Possession	195	132	67.7	24	12.3	15	7.7	7	3.6	17	8.7
Firearms	4,310	2,404	55.8	571	13.2	413	9.6	306	7.1	616	14.3
Burglary/B&E	27	15	55.6	4	14.8	2	7.4	1	3.7	5	18.5
Auto Theft	33	17	51.5	6	18.2	3	9.1	2	6.1	5	15.2
Larceny	793	562	70.9	88	11.1	48	6.1	29	3.7	66	8.3
Fraud	3,056	1,717	56.2	474	15.5	273	8.9	227	7.4	365	11.9
Embezzlement	257	197	76.7	33	12.8	9	3.5	10	3.9	8	3.1
Forgery/Counterfeiting	547	288	52.7	77	14.1	62	11.3	39	7.1	81	14.8
Bribery	57	29	50.9	12	21.1	3	5.3	3	5.3	10	17.5
Tax	191	103	53.9	39	20.4	20	10.5	8	4.2	21	11.0
Money Laundering	281	180	64.1	44	15.7	22	7.8	13	4.6	22	7.8
Racketeering/Extortion	163	91	55.8	27	16.6	10	6.1	17	10.4	18	11.0
Gambling/Lottery	26	15	57.7	2	7.7	3	11.5	2	7.7	4	15.4
Civil Rights	24	17	70.8	1	4.2	2	8.3	2	8.3	2	8.3
Immigration	11,253	3,640	32.3	3,172	28.2	1,359	12.1	1,612	14.3	1,470	13.1
Pornography/Prostitution	712	468	65.7	84	11.8	32	4.5	54	7.6	74	10.4
Prison Offenses	268	109	40.7	51	19.0	31	11.6	20	7.5	57	21.3
Administration of Justice Offenses	422	247	58.5	53	12.6	34	8.1	23	5.5	65	15.4
Environmental/Wildlife	76	64	84.2	5	6.6	2	2.6	2	2.6	3	3.9
National Defense	19	15	78.9	2	10.5	1	5.3	0	0.0	1	5.3
Antitrust	0	0	--	0	--	0	--	0	--	0	--
Food & Drug	32	29	90.6	2	6.3	0	0.0	0	0.0	1	3.1
Other Miscellaneous Offenses	706	478	67.7	89	12.6	40	5.7	35	5.0	64	9.1

¹Of the 78,832 cases, 43,945 were sentenced within the applicable guideline range. Of those, 38,003 had complete guideline application information. An additional 2,680 cases were excluded due to several logical criteria. Of the remaining 35,323 cases, 1,446 were excluded due to missing point in range information. Descriptions of variables used in this table are provided in Appendix A.

Figure J

DISTRIBUTION OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)



¹Of the 78,832 guideline cases, 1 were excluded due to missing primary offense category. An additional 635 of the 24,563 drug cases were excluded due to missing drug type. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. Descriptions of variables used in this figure are provided in Appendix A.

²The Non-Fraud White Collar category includes the following offense types: embezzlement, forgery/counterfeiting, bribery, money laundering, and tax.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

Table 21

GUIDELINE OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

PRIMARY OFFENSE	N	%
TOTAL	78,831	100.0
Murder	94	0.1
Manslaughter	57	0.1
Kidnapping/Hostage Taking	39	0.0
Sexual Abuse	462	0.6
Assault	644	0.8
Robbery	974	1.2
Arson	60	0.1
Drugs - Trafficking	23,433	29.7
Drugs - Communication Facility	497	0.6
Drugs - Simple Possession	633	0.8
Firearms	8,090	10.3
Burglary/B&E	36	0.0
Auto Theft	74	0.1
Larceny	1,497	1.9
Fraud	7,208	9.1
Embezzlement	450	0.6
Forgery/Counterfeiting	862	1.1
Bribery	164	0.2
Tax	608	0.8
Money Laundering	782	1.0
Racketeering/Extortion	603	0.8
Gambling/Lottery	59	0.1
Civil Rights	61	0.1
Immigration	25,260	32.0
Pornography/Prostitution	1,878	2.4
Prison Offenses	435	0.6
Administration of Justice Offenses	954	1.2
Environmental/Wildlife	209	0.3
National Defense	63	0.1
Antitrust	21	0.0
Food & Drug	72	0.1
Other Miscellaneous Offenses	2,552	3.2

¹Of the 78,832 cases, one was excluded due to missing information on primary offense category. Descriptions of variables used in this table are provided in Appendix A.

Table 22

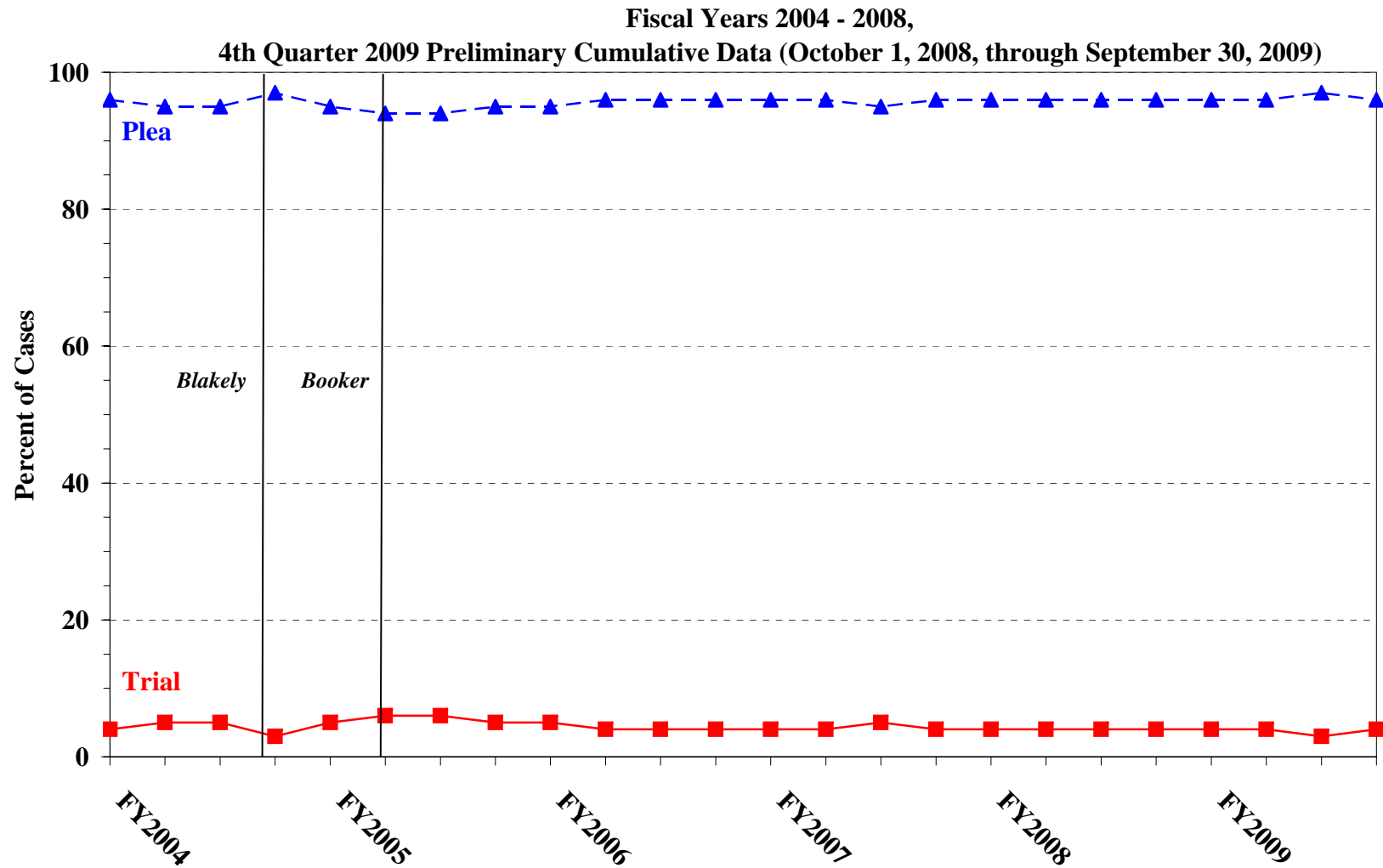
GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	TOTAL	PLEA		TRIAL	
		N	%	N	%
TOTAL	78,831	75,936	96.3	2,895	3.7
Murder	94	69	73.4	25	26.6
Manslaughter	57	53	93.0	4	7.0
Kidnapping/Hostage Taking	39	34	87.2	5	12.8
Sexual Abuse	462	403	87.2	59	12.8
Assault	644	602	93.5	42	6.5
Robbery	974	935	96.0	39	4.0
Arson	60	54	90.0	6	10.0
Drugs - Trafficking	23,433	22,486	96.0	947	4.0
Drugs - Communication Facility	497	495	99.6	2	0.4
Drugs - Simple Possession	633	608	96.1	25	3.9
Firearms	8,090	7,499	92.7	591	7.3
Burglary/B&E	36	34	94.4	2	5.6
Auto Theft	74	73	98.6	1	1.4
Larceny	1,497	1,461	97.6	36	2.4
Fraud	7,208	6,839	94.9	369	5.1
Embezzlement	450	438	97.3	12	2.7
Forgery/Counterfeiting	862	847	98.3	15	1.7
Bribery	164	154	93.9	10	6.1
Tax	608	538	88.5	70	11.5
Money Laundering	782	729	93.2	53	6.8
Racketeering/Extortion	603	526	87.2	77	12.8
Gambling/Lottery	59	55	93.2	4	6.8
Civil Rights	61	54	88.5	7	11.5
Immigration	25,260	25,070	99.2	190	0.8
Pornography/Prostitution	1,878	1,772	94.4	106	5.6
Prison Offenses	435	428	98.4	7	1.6
Administration of Justice Offenses	954	913	95.7	41	4.3
Environmental/Wildlife	209	192	91.9	17	8.1
National Defense	63	58	92.1	5	7.9
Antitrust	21	21	100.0	0	0.0
Food & Drug	72	71	98.6	1	1.4
Other Miscellaneous Offenses	2,552	2,425	95.0	127	5.0

¹Of the 78,832 cases, one was excluded due to one or both of the following reasons: missing primary offense category (1) or missing information on mode of conviction (1). Descriptions of variables used in this table are provided in Appendix A.

Figure K

QUARTERLY DATA FOR GUILTY PLEAS AND TRIALS¹



¹Descriptions of variables used in this table are provided in Appendix A.

Table 23

RACE OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	TOTAL	WHITE		BLACK		HISPANIC		OTHER	
		N	%	N	%	N	%	N	%
TOTAL	71,740	20,355	28.4	15,895	22.2	32,672	45.5	2,818	3.9
Murder	93	32	34.4	22	23.7	14	15.1	25	26.9
Manslaughter	57	4	7.0	1	1.8	2	3.5	50	87.7
Kidnapping/Hostage Taking	38	7	18.4	11	28.9	19	50.0	1	2.6
Sexual Abuse	458	238	52.0	43	9.4	47	10.3	130	28.4
Assault	574	154	26.8	82	14.3	89	15.5	249	43.4
Robbery	966	490	50.7	351	36.3	84	8.7	41	4.2
Arson	60	49	81.7	3	5.0	4	6.7	4	6.7
Drugs - Trafficking	23,230	6,102	26.3	6,876	29.6	9,423	40.6	829	3.6
Drugs - Communication Facility	495	137	27.7	184	37.2	151	30.5	23	4.6
Drugs - Simple Possession	313	151	48.2	106	33.9	41	13.1	15	4.8
Firearms	8,036	2,384	29.7	4,076	50.7	1,365	17.0	211	2.6
Burglary/B&E	36	9	25.0	7	19.4	1	2.8	19	52.8
Auto Theft	72	41	56.9	17	23.6	13	18.1	1	1.4
Larceny	1,231	637	51.7	363	29.5	146	11.9	85	6.9
Fraud	6,246	2,915	46.7	1,870	29.9	1,109	17.8	352	5.6
Embezzlement	419	259	61.8	96	22.9	23	5.5	41	9.8
Forgery/Counterfeiting	854	376	44.0	310	36.3	139	16.3	29	3.4
Bribery	161	86	53.4	29	18.0	29	18.0	17	10.6
Tax	589	404	68.6	85	14.4	43	7.3	57	9.7
Money Laundering	770	296	38.4	94	12.2	312	40.5	68	8.8
Racketeering/Extortion	583	231	39.6	150	25.7	164	28.1	38	6.5
Gambling/Lottery	59	41	69.5	0	0.0	8	13.6	10	16.9
Civil Rights	57	37	64.9	9	15.8	9	15.8	2	3.5
Immigration	21,628	2,313	10.7	382	1.8	18,724	86.6	209	1.0
Pornography/Prostitution	1,875	1,599	85.3	97	5.2	128	6.8	51	2.7
Prison Offenses	372	95	25.5	152	40.9	96	25.8	29	7.8
Administration of Justice Offenses	869	366	42.1	208	23.9	246	28.3	49	5.6
Environmental/Wildlife	165	122	73.9	1	0.6	9	5.5	33	20.0
National Defense	61	20	32.8	2	3.3	28	45.9	11	18.0
Antitrust	16	11	68.8	0	0.0	4	25.0	1	6.3
Food & Drug	66	36	54.5	5	7.6	14	21.2	11	16.7
Other Miscellaneous Offenses	1,291	713	55.2	263	20.4	188	14.6	127	9.8

¹Of the 78,832 cases, 7,092 were excluded due to one or both of the following reasons: missing primary offense category (1) or missing race (7,092). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

Table 24

GENDER OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	TOTAL	MALE		FEMALE	
		N	%	N	%
TOTAL	76,474	66,747	87.3	9,727	12.7
Murder	94	81	86.2	13	13.8
Manslaughter	57	43	75.4	14	24.6
Kidnapping/Hostage Taking	39	37	94.9	2	5.1
Sexual Abuse	461	442	95.9	19	4.1
Assault	627	552	88.0	75	12.0
Robbery	971	884	91.0	87	9.0
Arson	60	54	90.0	6	10.0
Drugs - Trafficking	23,387	20,530	87.8	2,857	12.2
Drugs - Communication Facility	497	405	81.5	92	18.5
Drugs - Simple Possession	510	414	81.2	96	18.8
Firearms	8,075	7,800	96.6	275	3.4
Burglary/B&E	36	32	88.9	4	11.1
Auto Theft	74	68	91.9	6	8.1
Larceny	1,381	872	63.1	509	36.9
Fraud	7,112	4,955	69.7	2,157	30.3
Embezzlement	445	197	44.3	248	55.7
Forgery/Counterfeiting	860	626	72.8	234	27.2
Bribery	164	142	86.6	22	13.4
Tax	604	475	78.6	129	21.4
Money Laundering	781	589	75.4	192	24.6
Racketeering/Extortion	596	544	91.3	52	8.7
Gambling/Lottery	59	56	94.9	3	5.1
Civil Rights	61	54	88.5	7	11.5
Immigration	23,810	22,085	92.8	1,725	7.2
Pornography/Prostitution	1,877	1,826	97.3	51	2.7
Prison Offenses	428	393	91.8	35	8.2
Administration of Justice Offenses	922	614	66.6	308	33.4
Environmental/Wildlife	198	185	93.4	13	6.6
National Defense	62	60	96.8	2	3.2
Antitrust	21	21	100.0	0	0.0
Food & Drug	70	59	84.3	11	15.7
Other Miscellaneous Offenses	2,135	1,652	77.4	483	22.6

¹Of the 78,832 cases, 2,358 were excluded due to one or both of the following reasons: missing primary offense category (1) or missing gender (2,358). Descriptions of variables used in this table are provided in Appendix A.

Table 25

AGE, RACE, AND GENDER OF OFFENDERS¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

Gender and Age	White		Black		Hispanic		Other	
	N	%	N	%	N	%	N	%
Males	16,905	100.0	13,910	100.0	29,944	100.0	2,282	100.0
Under 21	464	2.7	445	3.2	1,307	4.4	84	3.7
21 - 25	1,915	11.3	2,409	17.3	5,077	17.0	367	16.1
26 - 30	2,563	15.2	3,398	24.4	6,520	21.8	453	19.9
31 - 35	2,363	14.0	2,711	19.5	6,187	20.7	333	14.6
36 - 40	2,302	13.6	1,983	14.3	4,534	15.1	325	14.2
41 - 50	3,877	22.9	2,062	14.8	4,737	15.8	432	18.9
Over 50	3,421	20.2	902	6.5	1,582	5.3	288	12.6
Females	3,447	100.0	1,982	100.0	2,692	100.0	533	100.0
Under 21	127	3.7	49	2.5	146	5.4	15	2.8
21 - 25	511	14.8	298	15.0	431	16.0	75	14.1
26 - 30	560	16.2	404	20.4	508	18.9	78	14.6
31 - 35	451	13.1	353	17.8	470	17.5	84	15.8
36 - 40	477	13.8	252	12.7	398	14.8	72	13.5
41 - 50	784	22.7	403	20.3	535	19.9	125	23.5
Over 50	537	15.6	223	11.3	204	7.6	84	15.8

¹Of the 78,832 cases, 7,137 were excluded due to one or more of the following reasons: missing race (7,092), missing gender (2,358), or missing age (367). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

Table 26

CITIZENSHIP OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

PRIMARY OFFENSE	TOTAL	U.S. CITIZEN		NON-U.S. CITIZEN	
		N	%	N	%
TOTAL	76,259	42,234	55.4	34,025	44.6
Murder	93	83	89.2	10	10.8
Manslaughter	57	55	96.5	2	3.5
Kidnapping/Hostage Taking	38	19	50.0	19	50.0
Sexual Abuse	461	437	94.8	24	5.2
Assault	583	516	88.5	67	11.5
Robbery	969	943	97.3	26	2.7
Arson	60	59	98.3	1	1.7
Drugs - Trafficking	23,312	16,606	71.2	6,706	28.8
Drugs - Communication Facility	496	416	83.9	80	16.1
Drugs - Simple Possession	381	305	80.1	76	19.9
Firearms	8,055	7,401	91.9	654	8.1
Burglary/B&E	36	36	100.0	0	0.0
Auto Theft	72	70	97.2	2	2.8
Larceny	1,251	1,180	94.3	71	5.7
Fraud	6,995	5,079	72.6	1,916	27.4
Embezzlement	426	416	97.7	10	2.3
Forgery/Counterfeiting	857	774	90.3	83	9.7
Bribery	162	140	86.4	22	13.6
Tax	594	548	92.3	46	7.7
Money Laundering	773	534	69.1	239	30.9
Racketeering/Extortion	586	497	84.8	89	15.2
Gambling/Lottery	59	54	91.5	5	8.5
Civil Rights	58	51	87.9	7	12.1
Immigration	25,046	1,731	6.9	23,315	93.1
Pornography/Prostitution	1,876	1,798	95.8	78	4.2
Prison Offenses	380	348	91.6	32	8.4
Administration of Justice Offenses	880	704	80.0	176	20.0
Environmental/Wildlife	173	152	87.9	21	12.1
National Defense	61	28	45.9	33	54.1
Antitrust	19	10	52.6	9	47.4
Food & Drug	66	51	77.3	15	22.7
Other Miscellaneous Offenses	1,384	1,193	86.2	191	13.8

¹Of the 78,832 cases, 2,573 were excluded due to one or both of the following reasons: missing primary offense category (1) or missing citizenship information (2,573). Descriptions of variables used in this table are provided in Appendix A.

Table 27

DOCUMENT SUBMISSION BY EACH CIRCUIT AND DISTRICT¹
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received N	Received N	Received N	Received N	No Written Plea/Trial N	Received N	Received N	Waived N
TOTAL	78,832	363,953	78,831	77,317	56,829	21,614	78,642	72,334	6,496
D.C. CIRCUIT	370	1,801	370	368	330	38	370	363	7
District of Columbia	370	1,801	370	368	330	38	370	363	7
FIRST CIRCUIT	1,734	7,960	1,734	1,729	1,111	609	1,731	1,655	79
Maine	225	1,008	225	225	108	113	225	225	0
Massachusetts	495	2,164	495	493	192	302	494	490	5
New Hampshire	202	986	202	201	180	21	201	202	0
Puerto Rico	684	3,208	684	682	549	132	683	610	74
Rhode Island	128	594	128	128	82	41	128	128	0
SECOND CIRCUIT	4,424	20,620	4,424	4,371	3,211	1,185	4,409	4,205	219
Connecticut	380	1,870	380	380	356	22	375	379	1
New York									
Eastern	1,145	5,581	1,145	1,139	1,020	121	1,142	1,135	10
Northern	524	2,226	524	480	260	258	524	438	86
Southern	1,474	6,554	1,474	1,471	719	746	1,469	1,421	53
Western	707	3,438	707	707	680	27	705	639	68
Vermont	194	951	194	194	176	11	194	193	1
THIRD CIRCUIT	3,038	14,434	3,038	3,028	2,378	646	3,003	2,987	51
Delaware	158	780	158	158	148	9	158	158	0
New Jersey	873	4,244	873	873	779	94	848	871	2
Pennsylvania									
Eastern	859	3,993	859	857	571	288	857	849	10
Middle	633	3,110	633	630	588	43	633	626	7
Western	454	2,035	454	453	257	186	446	425	29
Virgin Islands	61	272	61	57	35	26	61	58	3
FOURTH CIRCUIT	6,641	29,947	6,641	6,289	4,612	1,984	6,597	5,808	833
Maryland	775	3,564	775	692	623	144	770	704	71
North Carolina									
Eastern	655	3,076	655	640	508	146	655	618	37
Middle	411	2,022	411	411	378	32	411	411	0
Western	521	2,468	521	519	387	131	521	520	1
South Carolina	1,074	4,893	1,074	1,071	605	469	1,073	1,070	4
Virginia									
Eastern	2,018	8,158	2,018	1,772	1,059	927	1,981	1,328	690
Western	493	2,373	493	491	404	89	493	492	1
West Virginia									
Northern	410	1,993	410	409	383	27	410	381	29
Southern	284	1,400	284	284	265	19	283	284	0

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
FIFTH CIRCUIT	19,112	84,806	19,112	18,997	10,545	8,488	19,086	17,066	2,046
Louisiana									
Eastern	426	1,977	426	416	284	142	425	426	0
Middle	174	832	174	174	136	38	174	174	0
Western	346	1,615	346	345	250	95	345	329	17
Mississippi									
Northern	137	673	137	137	131	6	137	131	6
Southern	325	1,537	325	314	276	45	323	299	26
Texas									
Eastern	922	4,520	922	920	839	82	921	918	4
Northern	996	4,707	996	995	727	268	995	994	2
Southern	7,414	34,365	7,414	7,411	4,829	2,577	7,413	7,298	116
Western	8,372	34,580	8,372	8,285	3,073	5,235	8,353	6,497	1,875
SIXTH CIRCUIT	5,084	24,112	5,084	5,054	4,040	981	5,074	4,860	224
Kentucky									
Eastern	648	3,151	648	648	578	69	647	630	18
Western	397	1,789	397	395	315	81	396	286	111
Michigan									
Eastern	705	3,403	705	705	589	111	703	701	4
Western	484	2,259	484	484	346	132	484	461	23
Ohio									
Northern	641	2,984	641	637	428	210	640	638	3
Southern	616	3,034	616	615	581	32	616	606	10
Tennessee									
Eastern	641	3,030	641	636	479	159	639	635	6
Middle	314	1,426	314	298	204	70	311	299	15
Western	638	3,036	638	636	520	117	638	604	34
SEVENTH CIRCUIT	2,785	13,388	2,785	2,766	2,290	488	2,784	2,763	22
Illinois									
Central	346	1,599	346	346	215	130	346	346	0
Northern	817	3,894	817	806	650	164	816	805	12
Southern	297	1,401	297	296	215	81	297	296	1
Indiana									
Northern	441	2,145	441	435	389	52	441	439	2
Southern	228	1,109	228	228	199	28	228	226	2
Wisconsin									
Eastern	465	2,300	465	465	445	20	465	460	5
Western	191	940	191	190	177	13	191	191	0
EIGHTH CIRCUIT	5,302	25,371	5,302	5,274	4,240	1,051	5,295	5,260	42
Arkansas									
Eastern	409	1,939	409	407	316	91	408	399	10
Western	254	1,262	254	253	248	6	254	253	1
Iowa									
Northern	347	1,593	347	347	209	137	344	346	1
Southern	470	2,235	470	470	355	113	470	470	0
Minnesota	613	3,006	613	612	560	52	613	608	5
Missouri									
Eastern	973	4,809	973	968	924	45	973	971	2
Western	818	3,763	818	810	507	311	817	811	7
Nebraska	644	3,132	644	642	562	82	644	640	4
North Dakota	267	1,180	267	258	135	131	265	255	12
South Dakota	507	2,452	507	507	424	83	507	507	0

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement ²		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
NINTH CIRCUIT	16,507	78,012	16,506	15,779	14,898	1,557	16,475	14,354	2,151
Alaska	175	798	175	175	108	67	175	165	10
Arizona	4,358	20,235	4,358	3,719	4,071	283	4,354	3,733	625
California									
Central	1,879	9,073	1,878	1,859	1,654	206	1,869	1,813	64
Eastern	1,031	5,053	1,031	1,022	945	78	1,030	1,025	6
Northern	832	3,918	832	811	704	124	824	747	85
Southern	4,773	22,411	4,773	4,750	4,479	289	4,770	3,639	1,134
Guam	61	291	61	60	49	12	61	60	1
Hawaii	303	1,378	303	302	176	126	303	294	9
Idaho	332	1,607	332	328	288	43	332	327	5
Montana	399	1,896	399	396	306	91	399	396	3
Nevada	401	1,918	401	401	321	78	400	395	6
Northern Mariana Islands	26	125	26	26	21	5	26	26	0
Oregon	621	3,015	621	614	569	52	619	592	29
Washington									
Eastern	395	1,897	395	395	324	67	395	388	7
Western	921	4,397	921	921	883	36	918	754	167
TENTH CIRCUIT	6,653	30,707	6,653	6,629	4,505	2,111	6,646	6,274	379
Colorado	516	2,549	516	511	503	13	516	503	13
Kansas	738	3,553	738	725	644	92	737	709	29
New Mexico	3,365	15,358	3,365	3,361	1,921	1,444	3,363	3,348	17
Oklahoma									
Eastern	98	451	98	98	59	36	98	98	0
Northern	215	982	215	215	123	92	215	214	1
Western	485	2,002	485	485	250	213	484	298	187
Utah	817	3,883	817	815	717	94	814	720	97
Wyoming	419	1,929	419	419	288	127	419	384	35
ELEVENTH CIRCUIT	7,182	32,795	7,182	7,033	4,669	2,476	7,172	6,739	443
Alabama									
Middle	231	1,111	231	231	188	43	230	231	0
Northern	464	2,180	464	459	353	108	464	440	24
Southern	427	2,039	427	427	336	91	427	422	5
Florida									
Middle	1,636	7,535	1,636	1,634	996	639	1,635	1,634	2
Northern	399	1,842	399	396	263	136	398	386	13
Southern	2,315	10,390	2,315	2,197	1,351	943	2,309	2,218	97
Georgia									
Middle	407	1,737	407	404	215	189	407	304	103
Northern	754	3,574	754	736	598	154	753	733	21
Southern	549	2,387	549	549	369	173	549	371	178

¹Descriptions of variables used in this table are provided in Appendix A.

²The figures presented in this table regarding plea agreement submission exclude from the analysis 163 cases for which the Commission was unable to determine definitively whether the defendant's guilty plea was entered pursuant to a written plea agreement.

SOURCE: U.S. Sentencing Commission, Preliminary 2009 Datafile, USSCFY09 (October 1, 2008, through September 30, 2009).

Table 28

**RATE OF SUBMISSION OF STATEMENT OF REASONS FORM
IN EACH CIRCUIT AND DISTRICT
4th Quarter 2009 Preliminary Cumulative Data (October 1, 2008, through September 30, 2009)**

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
TOTAL	78,832	68,874	87.4	8,507	10.8	1,451	1.8
D.C. CIRCUIT	370	364	98.4	6	1.6	0	0.0
District of Columbia	370	364	98.4	6	1.6	0	0.0
FIRST CIRCUIT	1,734	1,717	99.0	14	0.8	3	0.2
Maine	225	224	99.6	1	0.4	0	0.0
Massachusetts	495	491	99.2	3	0.6	1	0.2
New Hampshire	202	199	98.5	3	1.5	0	0.0
Puerto Rico	684	675	98.7	7	1.0	2	0.3
Rhode Island	128	128	100.0	0	0.0	0	0.0
SECOND CIRCUIT	4,424	4,282	96.8	90	2.0	52	1.2
Connecticut	380	379	99.7	1	0.3	0	0.0
New York							
Eastern	1,145	1,075	93.9	64	5.6	6	0.5
Northern	524	477	91.0	3	0.6	44	8.4
Southern	1,474	1,455	98.7	17	1.2	2	0.1
Western	707	706	99.9	1	0.1	0	0.0
Vermont	194	190	97.9	4	2.1	0	0.0
THIRD CIRCUIT	3,038	2,239	73.7	790	26.0	9	0.3
Delaware	158	156	98.7	2	1.3	0	0.0
New Jersey	873	95	10.9	778	89.1	0	0.0
Pennsylvania							
Eastern	859	853	99.3	4	0.5	2	0.2
Middle	633	629	99.4	2	0.3	2	0.3
Western	454	450	99.1	3	0.7	1	0.2
Virgin Islands	61	56	91.8	1	1.6	4	6.6
FOURTH CIRCUIT	6,641	6,189	93.2	122	1.8	330	5.0
Maryland	775	699	90.2	13	1.7	63	8.1
North Carolina							
Eastern	655	636	97.1	5	0.8	14	2.1
Middle	411	411	100.0	0	0.0	0	0.0
Western	521	515	98.8	4	0.8	2	0.4
South Carolina	1,074	1,069	99.5	2	0.2	3	0.3
Virginia							
Eastern	2,018	1,681	83.3	92	4.6	245	12.1
Western	493	491	99.6	0	0.0	2	0.4
West Virginia							
Northern	410	405	98.8	4	1.0	1	0.2
Southern	284	282	99.3	2	0.7	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
FIFTH CIRCUIT	19,112	12,516	65.5	6,488	33.9	108	0.6
Louisiana							
Eastern	426	418	98.1	3	0.7	5	1.2
Middle	174	173	99.4	1	0.6	0	0.0
Western	346	314	90.8	31	9.0	1	0.3
Mississippi							
Northern	137	136	99.3	1	0.7	0	0.0
Southern	325	315	96.9	1	0.3	9	2.8
Texas							
Eastern	922	913	99.0	7	0.8	2	0.2
Northern	996	987	99.1	8	0.8	1	0.1
Southern	7,414	7,376	99.5	35	0.5	3	0.0
Western	8,372	1,884	22.5	6,401	76.5	87	1.0
SIXTH CIRCUIT	5,084	4,897	96.3	159	3.1	28	0.6
Kentucky							
Eastern	648	644	99.4	4	0.6	0	0.0
Western	397	393	99.0	2	0.5	2	0.5
Michigan							
Eastern	705	701	99.4	4	0.6	0	0.0
Western	484	483	99.8	1	0.2	0	0.0
Ohio							
Northern	641	634	98.9	4	0.6	3	0.5
Southern	616	561	91.1	54	8.8	1	0.2
Tennessee							
Eastern	641	632	98.6	5	0.8	4	0.6
Middle	314	234	74.5	64	20.4	16	5.1
Western	638	615	96.4	21	3.3	2	0.3
SEVENTH CIRCUIT	2,785	2,692	96.7	74	2.7	19	0.7
Illinois							
Central	346	346	100.0	0	0.0	0	0.0
Northern	817	800	97.9	6	0.7	11	1.3
Southern	297	292	98.3	4	1.3	1	0.3
Indiana							
Northern	441	435	98.6	0	0.0	6	1.4
Southern	228	227	99.6	1	0.4	0	0.0
Wisconsin							
Eastern	465	403	86.7	62	13.3	0	0.0
Western	191	189	99.0	1	0.5	1	0.5
EIGHTH CIRCUIT	5,302	5,200	98.1	75	1.4	27	0.5
Arkansas							
Eastern	409	405	99.0	2	0.5	2	0.5
Western	254	252	99.2	1	0.4	1	0.4
Iowa							
Northern	347	345	99.4	2	0.6	0	0.0
Southern	470	467	99.4	3	0.6	0	0.0
Minnesota	613	560	91.4	52	8.5	1	0.2
Missouri							
Eastern	973	962	98.9	7	0.7	4	0.4
Western	818	806	98.5	4	0.5	8	1.0
Nebraska	644	640	99.4	2	0.3	2	0.3
North Dakota	267	258	96.6	0	0.0	9	3.4
South Dakota	507	505	99.6	2	0.4	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B ¹		Other Forms ²		No Form Received	
		N	%	N	%	N	%
NINTH CIRCUIT	16,507	15,349	93.0	446	2.7	712	4.3
Alaska	175	174	99.4	1	0.6	0	0.0
Arizona	4,358	3,708	85.1	22	0.5	628	14.4
California							
Central	1,879	1,845	98.2	17	0.9	17	0.9
Eastern	1,031	1,016	98.5	6	0.6	9	0.9
Northern	832	806	96.9	6	0.7	20	2.4
Southern	4,773	4,730	99.1	21	0.4	22	0.5
Guam	61	60	98.4	0	0.0	1	1.6
Hawaii	303	293	96.7	9	3.0	1	0.3
Idaho	332	327	98.5	1	0.3	4	1.2
Montana	399	392	98.2	4	1.0	3	0.8
Nevada	401	399	99.5	2	0.5	0	0.0
Northern Mariana Islands	26	26	100.0	0	0.0	0	0.0
Oregon	621	263	42.4	351	56.5	7	1.1
Washington							
Eastern	395	393	99.5	2	0.5	0	0.0
Western	921	917	99.6	4	0.4	0	0.0
TENTH CIRCUIT	6,653	6,508	97.8	124	1.9	21	0.3
Colorado	516	503	97.5	9	1.7	4	0.8
Kansas	738	723	98.0	2	0.3	13	1.8
New Mexico	3,365	3,345	99.4	16	0.5	4	0.1
Oklahoma							
Eastern	98	98	100.0	0	0.0	0	0.0
Northern	215	214	99.5	1	0.5	0	0.0
Western	485	480	99.0	5	1.0	0	0.0
Utah	817	726	88.9	91	11.1	0	0.0
Wyoming	419	419	100.0	0	0.0	0	0.0
ELEVENTH CIRCUIT	7,182	6,921	96.4	119	1.7	142	2.0
Alabama							
Middle	231	229	99.1	2	0.9	0	0.0
Northern	464	458	98.7	3	0.6	3	0.6
Southern	427	423	99.1	4	0.9	0	0.0
Florida							
Middle	1,636	1,627	99.4	8	0.5	1	0.1
Northern	399	394	98.7	2	0.5	3	0.8
Southern	2,315	2,191	94.6	10	0.4	114	4.9
Georgia							
Middle	407	371	91.2	33	8.1	3	0.7
Northern	754	682	90.5	54	7.2	18	2.4
Southern	549	546	99.5	3	0.5	0	0.0

¹Cases included in this category are those in which the court submitted Form AO 245B (Revision 06/05) to the Commission. Only cases in which all required pages of this form were submitted with no deletions or substantive changes are included in this category. Form AO 245B was approved by the Executive Committee of the Judicial Conference of the United States in June 2005.

²Cases are included in this category for one or more of the following reasons: one or more of the required pages of Form AO 245B (Revision 06/05) were missing; deletions or substantive changes were made in Form AO 245B (Revision 06/05) that prevented the USSC from collecting the information required to be submitted by 18 U.S.C. §3553(c); the outdated version of Form AO 245B was submitted; or a unique, district created, or modified form was submitted.

Appendix A

Descriptions of Datafiles and Variables

Introduction

Federal courts are required to forward to the Commission sentencing documentation on all offenders sentenced under the Sentencing Reform Act of 1984 (SRA), except in cases that solely involve petty offenses. Standard information on each case is extracted from sentencing documents received and computerized for analysis.

Given the nature of the datafile and reporting requirements, the following are not included: cases initiated but for which no convictions were obtained, offenders convicted for whom no sentences were yet issued, and offenders sentenced but for whom no sentencing documents were submitted to the Commission. Because the Commission collects information only on cases sentenced under the guidelines, information on cases sentenced under prior law (pre-guidelines) during the current fiscal year is not available in this dataset. When cases are sentenced under both prior law and the guidelines, only the guideline relevant information is coded in the dataset.

Note that for all tables, total percentages may not add up to exactly 100 percent due to rounding.

Variables

The following section describes the variables used in this report.

Above Guideline Range With *Booker*/18 U.S.C. § 3553

Above Guideline Range with Booker/18 U.S.C. § 3553 consist of cases sentenced above the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing of the guideline system.

Age

The *Age* of the offender on the day of sentencing is calculated using the offender's date of birth as reported in the presentence report and the date of sentencing as reported in the Judgment and Commitment Order.

All Remaining Cases Above Guideline Range

All Remaining Cases Above Guideline Range consist of cases sentenced above the guideline range that could not be classified into any of the other three above the range categories. This category includes cases in which no reason was provided for a sentence above the guideline range.

All Remaining Cases Below Guideline Range

All Remaining Cases Below Guideline Range consist of cases sentenced below the guideline range that could not be classified into any of the other three below the range categories. This category includes cases in which no reason was provided for a sentence below the guideline range.

Average Sentence Length

Using sentencing information obtained from the Judgment and Commitment Order, *Average Sentence Length* is reported as the mean and median terms of imprisonment (including any months of alternative confinement as defined in §5C1.1) ordered for cases committed to the Bureau of Prisons. Cases that

receive no term of imprisonment (i.e. probation) are also included in the average. Cases for which a term of imprisonment is ordered but the length is indeterminable are excluded. In most cases for which the exact term is unknown, the Judgment and Commitment Order merely specifies a sentence of time served. Prior to fiscal year 1993, the Commission defined life sentences as 360 months. However, to reflect life expectancy of federal criminal offenders more precisely and to provide more accurate length of imprisonment information, life sentences are now defined as 470 months.

Below Guideline Range With *Booker*/18 U.S.C. § 3553

Below Guideline Range with Booker/18 U.S.C. § 3553 consist of cases sentenced below the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing of the guideline system.

Circuit

Information on judicial *Circuit* is generated by computer using the location of the judicial district in which the offender was sentenced.

Citizenship Status

Information on the *Citizenship Status* of offenders is obtained from the presentence report. Offenders are categorized as one of the following: “U.S. citizen,” “resident alien,” “illegal alien,” and “non-U.S. citizen, alien status unknown.” The latter three categories are collapsed into the category of “non-U.S. citizen.”

Degree of Decrease

Degree of Decrease is calculated based on the difference between the length of imprisonment (not including any months of alternative confinement as defined in §5C1.1) and the guideline minimum for the following categories of below range cases: departures below the guideline range, departures below the guideline range with *Booker*/18 U.S.C. § 3553, below the guideline range with *Booker*/18 U.S.C. § 3553, all other below range cases, §5K1.1 substantial assistance cases, and §5K3.1 early disposition program cases, and other government sponsored cases. Life sentences, and cases where the guideline minimum is zero months or life are all excluded from all degree of decrease calculations due to the logical difficulty in calculating a decrease from these values.

Degree of Increase

Degree of Increase is calculated based on the difference between the guideline maximum and the length of imprisonment (not including any months of alternative confinement as defined in §5C1.1) for the following categories of above range cases: departures above the guideline range, departures above the guideline range with *Booker*/18 U.S.C. § 3553, above the guideline range with *Booker*/18 U.S.C. § 3553, and all other above range cases. Life sentences, sentences of probation, and cases where the guideline minimum is life are all excluded from all degree of increase calculations due to the logical difficulty in calculating an increase from these values.

District

Information on the judicial *District* in which sentencing occurred is obtained from the Judgment and Commitment Order.

Document Submission Rates

Five documents are represented in the document submission rate table: Judgment and Commitment Order (J&C), Presentence Report (PSR), Statement of Reasons (SOR), Indictment/Information (Ind), and Plea Agreements (Plea). The J&C and PSR generally are submitted in a standardized format. PSRs waived by

the court are indicated in a separate column. Standardized forms for the Statement of Reasons are most frequently submitted; however, transcripts or partial transcripts from the sentencing hearing are also included as *Statement of Reasons Received*. Cases in which the Commission was unable to determine definitively whether the offender's guilty plea was entered pursuant to a written agreement are excluded from the Plea Agreement totals.

Downward Departure From Guideline Range

Downward Departure from Guideline Range consist of cases with downward departures in which the court did not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

Downward Departure With *Booker*/18 U.S.C. § 3553

Downward Departure with Booker/18 U.S.C. § 3553 consist of cases sentenced below the guideline range in which the court indicated both a departure (see Downward Departure From Guideline Range) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

Drug Offense Guideline

Drug Offense Guideline information is obtained from the presentence report and is based on the guidelines in USSG Chapter Two, Part D. The six guidelines featured in the tables (§2D1.1, §2D1.2, §2D1.5, §2D1.6, §2D1.8, and §2D2.1) represent the vast majority of drug cases.

Drug Type

Information on *Drug Type* is obtained from the Judgment and Commitment Order or the presentence report. It is recorded only if at least one of the statutes of conviction recorded by the Commission is a title 21 U.S. Code offense or a non-title 21 offense when the underlying conduct involves a controlled substance. Information about type of drug in the text and tables is derived from the primary drug type (*i.e.*, the type that produces the highest base offense level). The category *Marijuana* includes Hashish and Hashish oil. The category *Methamphetamine* includes pure (actual) methamphetamine, "ICE", methamphetamine mixture, and methamphetamine precursors (specifically including ephedrine and pseudoephedrine). ("ICE" has been included in the methamphetamine category since FY1996). All drug types not listed separately in this report are collapsed into the "other" drug category.

Education

Information on education of the offender is obtained from the presentence report and is collapsed into general categories. Technical, military, and vocational training as well as course work at community colleges are included in the *Some College* category. A general equivalency degree (GED) is included in the *High School Graduate* category.

Gender

Gender of the offender is obtained from the presentence report or probation office.

Government Sponsored

Government sponsorship of a departure is determined by a yearly case review by USSC staff of both the reasons for departure and the coding by USSC staff of any indication of government sponsorship as indicated on the Statement of Reasons. The SOR form AO245B version 12/03 and 06/05 have specific check-boxes to indicate the origins of the departure, but cases which do not use this form may also indicate in writing the origins of the departure. Additionally, all cases with one or more of the following

reasons were classified as being sponsored by the government regardless of whether the SOR indicated sponsorship: pursuant to a plea agreement (binding, non-binding, or unknown), fast track, savings to the government, early plea, deportation, waiver of indictment and/or appeal, other government motion, global disposition, due to stipulations, facilitated early release of a material witness, joint recommendation, and large number of immigration cases. Note that since the USSC reviews the reasons on a yearly basis this list might be modified slightly from year to year. Unless otherwise broken out in the table or chart, this category also includes cases with §5K3.1 Early Disposition Program (EDP) departures.

Guideline Offenders Sentenced

Each *Guideline Offender Sentenced* or case, as recorded by the USSC, involves a single sentencing event for a single offender. Multiple counts, and even multiple indictments, are considered a single sentencing event if sentenced at the same time by the same judge. A single offender may appear in more than one case if involved in more than one sentencing event during the fiscal year. Co-offenders in the same sentencing will each appear as separate cases.

Guideline Sentencing Range

The *Guideline Sentencing Range* is taken from the Statement of Reasons provided by the sentencing court. Alternatively, if the Statement of Reasons is missing, then the information is taken from the presentence report.

For tables in this report, unless otherwise indicated, the guideline sentencing range does not take into account applicable statutory restrictions on either the maximum or the minimum of the range; therefore, it may differ from the available range, which does take into account the statutory restrictions.

Mode of Conviction

Information on *Mode of Conviction* is obtained from the Judgment and Commitment Order. Offenders sentenced subsequent to a plea of guilty or *nolo contendere* are included in the *Plea* category. Offenders sentenced subsequent to a trial by judge or jury are included in the *Trial* category. Rare cases involving both a plea and a trial are included in the *Plea* category.

Outside of the Range Attribution Categories

All categories replicate the list of checkboxes available on the SOR Form AO245B (Both 12/03 and 06/05). Not all checkbox categories are available in both the departure section and sentences outside the guideline system section on this form and that multiple checkboxes may be indicated in a single case so that totals in a table may exceed the total number of cases. USSC uses these checkboxes in determining government sponsorship: all cases in which one of the pursuant to a plea agreement boxes is indicated are attributed to the government. Additionally cases where a §5K1.1, §5K3.1, or other government motion checkbox was indicated in the pursuant to a motion not in a plea agreement section are also attributed to one of the government sponsored categories. Additionally other types of SOR forms may indicate sponsorship in writing and these attributions are also included in the appropriate category.

Position of Sentence

The *Position of Sentence* describes within-range guideline sentences in terms of their relative positions within their applicable guideline ranges. Only cases with complete information from the Statement of Reasons are used for this table. The *Position of Sentence* is determined by dividing the available range in half. This allows a sentence to fall into one of five distinct categories: the guideline minimum; the exact midpoint of the range; the guideline maximum; the lower-half of the range (when not at the guideline minimum); and the upper-half of the range (when not at the guideline maximum). The “available range”

is the guideline range with applicable statutory restrictions on either the maximum or the minimum of the range taken into account. (For cases in which guideline §5C1.2 was applied, in accordance with the provisions of the guideline, the statutory restrictions on the range are those from 18 U.S.C. § 3553(f).) In cases in which the sentence is located outside the available sentencing range, departure information is provided as reported by the sentencing court. Differences in the number and percentage of cases in each range quarter may differ from other tables presented in this report; this is due to the exclusion of any case missing both complete information from the Statement of Reasons and information on statutory minima and maxima.

Primary Offense Category

Information on *Primary Offense Category* is obtained from the Judgment and Commitment Order. The “primary” offense code for the case is determined to be the offense code applicable for the count of conviction with the highest statutory maximum. If two or more counts are found to have the same statutory maximum, “primary” offense is selected according to which count of conviction has the highest statutory minimum. Finally, in the event of a small number of cases still tied, the offense type that best represented the nature of the criminal behavior is chosen.

For convenience in analysis, a summary variable describing “primary offense category” is derived. This code is generated by grouping similar primary offense codes into a smaller set of categories. Note that the primary offense categories differ between the individual and organizational offender datafiles. Listed below are the offense types that are grouped into each of the primary offense categories used in the individual datafile tables for this report:

Murder includes first degree murder, felony with death resulting, second degree murder, and conspiracy to murder (with death resulting).

Manslaughter includes both involuntary and voluntary manslaughter.

Kidnapping/Hostage includes ransom taking and hostage/kidnapping.

Sexual Abuse includes sexual abuse of a minor, sexual abuse of a ward, criminal sexual abuse, and abusive sexual contact.

Assault includes attempt to commit murder, assault with intent to murder, threatening communication, aggravated assault, conspiracy with attempt to murder, obstructing or impeding officers, minor assault, and conspiracy that includes assault with attempt to murder.

Robbery includes bank robbery, aggravated bank robbery, Hobbs Act robbery, mail robbery, other robbery, and carjacking.

Arson also includes damage by explosives.

Drugs: Trafficking includes drug distribution/manufacture, drug distribution/manufacture – conspiracy, continuing criminal enterprise, drug distribution – employee under 21, drug distribution near school, drug import/export, drug distribution to person under 21, and establish/rent drug operation.

Drugs: Communication Facility includes use of a communication facility in a drug trafficking offense.

Drugs: Simple Possession includes distribution of a small amount of marijuana and simple possession.

Firearms includes unlawful possession/transportation of firearms or ammunition; possession of guns/explosives on aircraft; unlawful trafficking, etc. in explosives; possession of guns/explosives in federal facility/schools; use of fire or explosives to commit felony; and use of firearms or ammunition during crime.

Burglary/Breaking & Entering includes post office burglary, burglary of DEA premises (pharmacy), burglary of other structure, bank burglary, and burglary of a residence.

Auto Theft includes auto theft (including parts), receipt/possession of stolen auto or parts, and altered identification numbers/trafficking in altered (auto).

Larceny includes bank larceny, theft from benefit plans, other theft – mail/post office, receipt/possession of stolen property (not auto), other theft – property, larceny/theft-mail/post office, larceny/theft – property (not auto), and theft from labor union.

Fraud includes odometer laws and regulations, insider trading, and fraud and deceit.

Embezzlement includes embezzlement – property, embezzlement from labor unions, embezzlement – mail/post office, embezzlement from benefit plans, and bank embezzlement.

Forgery/Counterfeiting includes counterfeit bearer obligations and forgery/counterfeit (non-bearer obligations).

Bribery includes payment to obtain office, bribe involving officials, bribery – bank loan/commercial, loan or gratuity to bank examiner, etc., gratuity involving officials, and bribe or gratuity affecting employee plan.

Tax Offenses include receipt/trafficking in smuggled property, aid, etc., in tax fraud; fraud – tax returns, statements, etc.; fraud, false statement – perjury; failure to file or pay; tax evasion; evading import duties (smuggle); failure to collect or account for taxes; regulatory offenses – taxes; failure to deposit taxes in trust account; non-payment of taxes; conspiracy to avoid taxes; and offenses relating to withholding statements.

Money Laundering includes laundering of monetary instruments, monetary transaction from unlawful activity, failure to file currency report, and failure to report monetary transactions.

Extortion/Racketeering includes extortionate extension of credit, blackmail, extortion by force or treat, Hobbs Act extortion, travel in aid of racketeering, crime relating to racketeering, and violent crimes in aid of racketeering.

Gambling/Lottery includes engaging in a gambling business, transmission of wagering

information, obstruction to facilitate gambling, and interstate transportation of wagering paraphernalia.

Civil Rights includes interference with rights under color of law; force or threats to deny benefits or rights; obstructing an election or registration; manufacture, etc. – eavesdropping device; other deprivations/discrimination; obstructing correspondence; peonage, servitude, and slave trade; intercept communication or eavesdropping; and conspiracy to deprive individual of civil rights.

Immigration includes trafficking in U.S. passports; trafficking in entry documents; failure to surrender naturalization certificate; fraudulently acquiring U.S. passports; smuggling, etc.; unlawful alien; fraudulently acquiring entry documents; and unlawfully entering U.S.

Pornography, Prostitution includes dealing in obscene matter, transportation of minor for prostitution/sex, transportation for prostitution/sex (adult), sexual exploitation of minors, materials involving sexual exploitation of minors, obscene telephone or broadcasting, and selling or buying children for pornography.

Offenses In Prisons includes contraband in prisons, riots in federal facilities, and escape.

Administration of Justice includes commission of offense while on release, bribery of a witness, failure to appear by offender, contempt, failure to appear by material witness, obstruction of justice, payment of witness, perjury or subornation of perjury, misprision of a felony, and accessory after the fact.

Environmental/Fish And Wildlife includes waste discharge, specially protected fish, wildlife, and plants (waste discharge is presented as a separate offense category in Tables 51 and 52).

National Defense includes evasion of export controls and exportation of arms, etc., without license.

Antitrust includes bid-rigging, price-fixing, and market allocation agreement.

Food and Drug includes false information or tampering with products, tampering to injure business, tampering with risk of death or injury, and violation of regulations involving food, drugs, etc.

Other Miscellaneous Offenses includes illegal use of regulatory number – drugs; illegal transfer of drugs; illegal regulatory number to get drugs; drug paraphernalia; forgery/fraud for drugs; dangerous devices to protect drugs; manufacture drugs against quota; endangering life while manufacturing drugs; operate carrier under drugs; endangerment from hazardous/toxic substances; mishandling substances, records, etc.; threat of tampering with public water system; hazardous devices of federal lands; mishandling other pollutants, records, etc.; improper storage of explosives; record keeping violation – explosives; possession of other weapon – on aircraft, in federal facility; failure to report theft of explosives; feloniously mailing injurious articles; transport of hazardous material in commerce; interference with flight crew, other offense

– aboard aircraft; criminal infringement of copyright/trademark; conflict of interest; unauthorized payment; non-drug forfeiture; impersonation; false statement to Employee Act; reporting offenses – labor related; criminal infringement of trademark; unlawful conduct relating to control/cigarettes; trespass; destruction of property; destruction of mail; aircraft piracy; conspiracy to murder (no death, assault, or attempt); conspiracy to commit murder; and all other miscellaneous offenses not previously listed in any of the other categories.

Race

Information on *Race* of the offender is obtained from the presentence report in separate categories of race and ethnicity (*White, Black, Native American or Alaskan Native, and Asian or Pacific Islander*). Ethnicity data indicate whether an offender is of Hispanic origin. (For purposes of this report, offenders whose ethnic background is designated as Hispanic are represented as Hispanic in all tables regardless of racial background.) The *Other* category includes offenders of Native American, Alaskan Native, and Asian or Pacific Islander origin.

Type of Guideline Sentence Imposed

Using sentencing information obtained from the Judgment and Commitment Order, the *Total Receiving Prison* column includes the number of offenders sentenced (and percent of *Total Cases*) who received a commitment to the Bureau of Prisons. This column is the sum of cases in *Prison* and the *Prison/Community Split Sentence* categories.

The *Prison* category includes offenders sentenced to a term of imprisonment only, with no additional conditions of community confinement, home detention or intermittent confinement.

The *Prison/Community Split Sentence* category includes all cases in which offenders received prison and conditions of alternative confinement as defined in USSG §5C1.1. This category includes, but is not limited to, Zone A, Zone B, or Zone C cases receiving prison with additional conditions of a term of community confinement, home detention, or intermittent confinement.

The *Total Receiving Probation* column includes the number of offenders sentenced (and the percent of *Total Cases*) who received a term of probation with or without a condition of community confinement, intermittent confinement, or home detention. This column also represents the total of the *Probation Only* and *Probation and Confinement* categories.

The *Probation Only* column includes the number of offenders who received a term of probation without a condition of community confinement, intermittent confinement, or home detention.

Probation and Confinement includes the number of offenders who received a term of probation with a condition of community confinement, intermittent confinement, or home detention.

Upward Departure From Guideline Range

Upward Departure from Guideline Range consist of cases with upward departures in which the court did

not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

Upward Departure With *Booker*/18 U.S.C. § 3553

Upward Departure with Booker/18 U.S.C. § 3553 consist of cases sentenced above the guideline range in which the court indicated both a departure (see Upward Departure From Guideline Range) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

Year

Information on Year is obtained from the Judgment and Commitment Order. Unless otherwise indicated, the sentencing year is defined as the fiscal year in which the offender was sentenced.

Zone

The *Sentencing Table* is categorized into sentencing *Zones*. Courts may impose various types of punishment as alternatives to imprisonment. Alternative types of punishment include: probation, home detention, community confinement, and intermittent confinement. Imposition of alternative types of punishment is restricted to offenders within specific sentencing zones.

Zone A: a guideline range is in Zone A when the minimum term of imprisonment specified is zero months;

Zone B: a guideline range is in Zone B when the minimum term of imprisonment specified is at least one but not more than six months;

Zone C: a guideline range is in Zone C when the minimum term of imprisonment specified is eight months when criminal history category is four or less, and nine months if the criminal history category is greater than four;

Zone D: a guideline range is in Zone D when the minimum term of imprisonment specified is twelve months or more.

See Chapter 5 of the *Guidelines Manual* for a description of alternatives to imprisonment and the conditions under which they are applicable.

Appendix B:
List of Quarterly Report Tables and Figures
and Comparable FY06 *Sourcebook* Number/Letter

<u>Quarterly Report Tables/Figures</u>	<u>Comparable <i>Sourcebook</i> Tables/Figures</u>
Table 1	Table N
Table 2	Table 26
Table 3	Table 27
Figure A	N/A
Figure B	N/A
Table 4	N/A
Table 5	Table 28
Table 6	Table 28A
Table 7	Table 30
Table 8	Table 30A
Table 9	Table 31
Table 10	Table 31A
Table 11	Table 31B
Table 12	Table 31C
Table 13	Table 31D
Table 14	Table 32
Table 15	Table 32A
Table 16	Table 32B
Table 17	Table 32C
Table 18	Table 15
Table 19	Table 13
Figure C	N/A
Figure D	N/A
Figure E	N/A
Figure F	N/A
Figure G	N/A
Figure H	N/A
Figure I	N/A
Table 20	Table 29
Figure J	Figure A
Table 21	Table 3
Table 22	Table 11
Figure K	N/A
Table 23	Table 4

Table 24	Table 5
Table 25	Table 7
Table 26	Table 9
Table 27	Tables 1
Table 28	N/A